

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates in
Franklin County by Water Management
Services, Inc.

DOCKET NO. 110200-WU
ORDER NO. PSC-13-0197-FOF-WU
ISSUED: May 16, 2013

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR
EDUARDO E. BALBIS
JULIE I. BROWN

APPEARANCES:

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On behalf of the Citizens of the State of Florida (OPC).

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FINAL ORDER GRANTING PETITION FOR RATE INCREASE

BY THE COMMISSION:

I. BACKGROUND

Water Management Services, Inc. (WMSI or Utility) is a Class A utility providing
service to approximately 1,808 water customers in Franklin County. For the year ended

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FPSC-COMMISSION CLERK

December 31, 2011, the Utility reported operating revenues of \$1,384,646 and net operating income of \$58,939. WMSI's last rate case was in 2010.¹

On November 7, 2011, the Utility filed its application for rate increase at issue in the instant docket. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and requested interim rates. The test year established for interim and final rates is the 13-month average period ended December 31, 2010. The Utility's application did not meet the minimum filing requirements (MFRs) as filed, and it was not until February 17, 2012, that the MFRs were determined to be complete. This date was set as the official date of filing.

By Order No. PSC-12-0030-PCO-WU, issued January 19, 2012, we approved interim rates designed to generate annual revenues of \$1,417,664.² This represents a revenue increase on an annual basis of \$115,803 or 8.90 percent. The interim rates are subject to refund with interest, pending the conclusion of the rate case.

On January 20, 2012, the Office of Public Counsel (OPC) filed a Notice of Intervention in this docket, and we issued an order acknowledging intervention on January 23, 2012.³

Subsequently, by PAA Order No. PSC-12-0435-PAA-WU (PAA Order), issued August 22, 2012, we approved rates designed to generate a total water revenue requirement of \$1,811,648.⁴ On September 12, 2012, OPC timely filed a protest of portions of the PAA Order. By letter dated September 13, 2012, WMSI gave notice that it elected to put the rates approved in the PAA Order into effect during the pendency of the administrative hearing pursuant to Section 367.081(8), Florida Statutes (F.S.). On September 19, 2012, WMSI timely filed a cross-petition.

A formal hearing and service hearings were held January 16 and 17, 2013, on St. George Island. The parties filed briefs on February 11, 2013.

This Final Order addresses the parties' protested issues, revenue requirement, and rates that we have approved on a prospective basis. The PAA issues not protested have been deemed stipulated pursuant to Section 120.80(13)(b), F.S. A list of the stipulated issues is in Attachment A to this Order. We have jurisdiction pursuant to Sections 367.081 and 367.082, F.S.

¹ See Order No. PSC-11-0010-SC-WU, issued January 3, 2011, in Docket No. 100104-WU, In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

² See Order No. PSC-12-0030-PCO-WU, issued January 19, 2012, in Docket No. 100104-WU, In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

³ See Order No. PSC-12-0034-PCO-WU, January 23, 2012, in Docket No. 110200-WU, In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

⁴ See Order No. PSC-12-0435-PAA-WU, issued August 22, 2012, in Docket No. 110200-WU, In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

RATE BASE

The appropriate working capital allowance

WMSI proposed that we use one-eighth of operations and maintenance expense to determine the appropriate working capital allowance, the same methodology used by Class B and C utilities. WMSI witness Allen testified that because any normal viable company requires a working capital allowance to pay its current liabilities as they come due, the Utility's working capital allowance should be \$129,873. Witness Allen stated that the Commission's practice of adjusting a negative working capital to zero only "perpetuates the problem." Similarly, WMSI witness Guastella advocated the use of a more representative analysis because the balance sheet approach produces "questionable results."

WMSI witness Guastella testified "it seems that the Commission has recognized that although WMSI has become a Class A utility, it has yet to become a typical utility in terms of its financial position and cash flow." In addition, WMSI witness Brown testified that the Utility's transition from a Class B to a Class A utility should not preclude it from being allowed a working capital allowance. According to WMSI witness Brown, the Utility is entitled to have a working capital allowance included in rate base.

OPC proposed that the appropriate working capital allowance should remain what was approved and established by the PAA Order. OPC witness Schultz testified that WMSI's proposed handling of working capital "is only appropriate if the utility uses investor provided funds to operate the company." In WMSI's case, OPC's witness stated that "investors have not provided interest free debt; therefore, there are no investor loans that can be considered as a source of working capital." Witness Schultz testified that, because WMSI has not shown that it has issued sufficient equity or debt as a source of investor funds, it is not entitled to any working capital allowance.

We find that WMSI is not the start-up developer-related utility WMSI witness Guastella's testimony describes. WMSI has been in existence since 1974 and has been a Class A utility since at least 2003, according to the Utility's annual reports. The Utility does not dispute that it is, in fact, a Class A utility.

Rule 25-30.433(2), Florida Administrative Code (F.A.C.), requires that Class A utilities use the balance sheet method to calculate the working capital allowance. The balance sheet approach generally defines working capital as current assets and deferred debits that are utility-related, and do not already earn a return, less current liabilities, deferred credits and operating reserves that are utility-related and upon which a utility does not already pay a return.⁵ No compelling reasons have been provided in the record to support a departure from that methodology here, and there is no Commission precedent carving out an exception.

⁵ See Order Nos. PSC-12-0435-PAA-WU, pp.15-16; Order No. PSC-11-0514-PAA-WS, issued November 3, 2011, in Docket No. 100426-WU, In re: Application for increase in water and wastewater rates in Lake County by Lake Utility Services, Inc., p.18; and Order No. PSC-09-0101-PAA-WS, issued February 16, 2009, in Docket No. 070693-WS, In re: Application for increase in water and wastewater rates in Lake County by Lake Utility Services, Inc., p. 7.

Accordingly, the balance sheet method we approved in the Utility's last rate case,⁶ and used by the Utility in the filing of its MFRs,⁷ shall be approved. This is consistent with the methodology used by the other Class A water utilities operating within our jurisdiction.

Moreover, it is our practice to include one-half of the unamortized amount of rate case expense approved in a prior case and one-half of the approved amount from the instant case in the working capital calculation for Class A water and wastewater utilities.⁸ In the PAA Order, we determined that the appropriate amount of unamortized rate case expense (URCE) to include in the working capital allowance was \$176,850. The URCE approved in the PAA Order is not in dispute by any party and is stipulated pursuant to Section 120.80(13)(b), F.S. However, an adjustment shall be made to account for the additional rate case expense associated with the protest. In Issue 7, we determined the amount of rate case expense to be \$108,271 for the protest. Consistent with our long-standing practice, one-half of the total rate case expense, or \$53,614, shall be included in the working capital allowance. We find that the appropriate total amount of URCE here is \$230,986 (\$176,850 + \$54,136). In its filing, the Utility included \$339,180 in its working capital allowance for the 2010 and current rate case expense. Consistent with our findings herein, the URCE included in the working capital shall be decreased by \$108,194 (\$230,986 - \$339,180).

The summation of our previously-approved adjustments and additional adjustments contained in other issues results in a negative working capital allowance of \$68,309 (\$39,885 - \$108,194). A negative working capital balance is not typical of a "normal" utility or the expected future condition of a utility.⁹ Therefore, consistent with Commission practice,¹⁰ the working capital allowance shall be set at zero, which results in a reduction in the Utility's working capital allowance of \$39,885.

⁶ See Order No. PSC-11-0010-SC-WU.

⁷ On MFR Schedule A-17, the Utility reflected working capital of \$39,885 using the balance sheet approach. (TR 56)

⁸ See Order Nos. PSC-08-0327-FOF-EI, issued May 19, 2008, in Docket No. 070304-EI, In re: Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Public Utilities Company; PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.; and PSC-97-1225-FOF-WU, issued October 10, 1997, in Docket No. 970164-WU, In re: Application for increase in rates in Martin County by Hobe Sound Water Company.

⁹ See Order Nos. PSC-12-0435-PAA-WU, p.16; PSC-10-0168-PAA-SU, issued March 23, 2010, in Docket No. 090182-SU, In re: Application for increase in wastewater rates in Pasco County by Ni Florida, LLC., p.5.

¹⁰ See Order Nos. PSC-10-0168-PAA-SU, issued March 23, 2010, in Docket No. 090182-SU, In re: Application for increase in wastewater rates in Pasco County by Ni Florida, LLC; PSC-97-0540-FOF-WS, issued May 12, 1997, in Docket No. 960799-WS, In re: Application for staff-assisted rate case in DeSoto County by Lake Suzy Utilities, Inc.; PSC-97-0076-FOF-WS, issued January 27, 1997, in Docket No. 961364-WS, In re: Investigation of rates of Lindrick Service Corporation in Pasco County for possible overearnings; and PSC-95-0574-FOF-WS, issued May 9, 1995, in Docket No. 940917-WS, In re: Application for rate increase in Seminole, Orange, and Pasco Counties by Utilities, Inc. of Florida.

The appropriate rate base for the test year ended December 31, 2010

Based on our findings regarding the foregoing adjustments, the appropriate rate base is \$7,084,897. Schedule No. 1-A, attached to this Order reflects the rate base calculation. The adjustments to rate base are shown on Schedule No. 1-B, attached to this Order.

COST OF CAPITAL

In its filing, the Utility requested an overall cost of capital of 5.96 percent. The Utility's weighted average cost of capital contained a long-term debt cost rate of 5.96 percent. This long-term debt cost rate on a Centennial Bank loan is 8.46 percent based on the payment of \$39,258 per year for the \$3,000,000 of life insurance on the owner, Mr. Brown, who assigned the life insurance to Centennial Bank as collateral for the loan.

OPC asserted that the weighted average cost of capital should remain at 5.51 percent. OPC stated the cost of the life insurance policy on WMSI owner Mr. Brown that is collateral for a Centennial Bank loan should not be included in the long-term debt cost rate.

We adjusted the long-term debt cost rate by removing the cost of the life insurance policy expense of \$39,258 from the long-term debt cost rate, and treating this amount as O&M expense. This adjustment reduced the long-term debt cost rate to 5.60 percent and the overall weighted average cost of capital to 5.61 percent. Based upon the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2010, we find the overall weighted average cost of capital is 5.61 percent. Details of the overall cost of capital are set forth in Schedule No. 2 attached to this Order.

NET OPERATING INCOME

Adjustments to contractual services - accounting expense

WMSI requested recovery of contractual services – accounting expense based on a five-year average of actual, documented accounting expense as allowed in the last case. WMSI witness Allen testified that the level of accounting service expense previously approved by the PSC is inadequate because the methodology used in the previous rate case, where we approved the same dollar amount was calculated in the 2009 case without an inflationary increase,

Witness Allen testified in favor of using the same methodology applied in the previous rate case by approving accounting expenses calculated based on the five-year average of actual expenses from 2006 through the 2010 test year. According to witness Allen, the appropriate amount of accounting expense based on the 5-year average is \$5,252, and entitles the Utility to an increase of \$1,585 over the PAA amount. Even with the increase, witness Allen asserted that on a going-forward basis, actual accounting expenses will likely far exceed the amount being requested by the Utility.

OPC witness Schultz testified that, while WMSI's request for an increase in costs may be appropriate, the Utility has not met its burden of proof for justifying the change. Witness Schultz

testified that the increase in expense calculated by WMSI witness Allen is skewed upward by the inclusion of accounting expenses of \$18,550 for 2010. Additionally, witness Schultz stated that there is no explanation for the change in cost, which is something that should have been addressed by the Utility. Witness Schultz also testified that he was concerned that, based on the aged accounts payable as of December 31, 2011, \$4,500 of accounting costs for 2010 were still not paid. OPC argued in its post-hearing brief that if the Utility’s position does not prevail, rate case expense be reduced 1/12.

OPC’s arguments and testimony related to any unpaid portion of contractual services – accounting expense and other previously-authorized rate case expense will be more thoroughly addressed below. WMSI witness Brown testified that the bill for this work, including the \$4,500 referenced by witness Schultz, has been paid in full. We will also address any potential reduction to current rate case expense later in this Order. As for the skewing of the increase mentioned by OPC witness Schultz, we find that the inclusion does skew the result upward. We find that expenses for years such as 2006 (\$698) and 2008 (\$535) similarly skew the five-year average lower.

In the previous rate case, the amount for normal recurring accounting expense was calculated by applying the 5-year average of actual expenses from 2005 through the 2009 test year in that case, which resulted in expenses of \$3,667. In the current rate case, WMSI’s witness Allen testified that the appropriate amount of accounting expense based on the 5-year average (2006-2010) is \$5,252. However, witness Allen included \$18,550 of actual accounting expenses for the current test year in the 5-year average. WMSI witness Brown testified that the accounting expense was primarily for extensive work on plant depreciation schedules and other complicated accounting issues to comply with NARUC standards.

We find that the Utility’s use of \$18,550 for accounting expense in its 5-year calculation is not appropriate because WMSI recorded contractual services – accounting expense of only \$9,550 in its MFRs for the current test year. Further, while some fluctuation is to be expected, there are extreme variations in accounting expenses, as shown in Table 1 below.

Table 1

Contractual Services – Accounting Expense 2005-2010		
<u>Year</u>	<u>Acct. Expense (Annual Report)</u>	<u>% Change from Previous Year</u>
2005	\$10,626	
2006	\$698	-93%
2007	\$2,250	222%
2008	\$535	-76%
2009*	\$4,225	690%
2010**	\$18,550	339%

* Test year in Docket No. 100104-WU.

** Test year in current docket.

If the \$9,550 MFR amount is used in the 5-year average calculation, it would equate to an average calculation of \$3,452, which is less than the amount of \$3,667 that was approved in WMSI's last rate proceeding. Given the above, we find that, given the proximity of the test years and the lack of additional support provided for the request, the Utility has not proven that its requested increase in contractual services – accounting expense is warranted. No evidence was presented documenting additional duties required by the outside accountant or that the work being performed has changed substantially since the last rate case. Thus, we find that contractual services - accounting expense shall be reduced by the Utility's requested increase, \$5,883. The resulting contractual services - accounting expense is \$3,667 (\$9,550 - \$5,883), the same amount approved in the last rate case and authorized in the PAA order in the instant case.

Adjustments to transportation expense

WMSI argued that our prior adjustment to transportation expense effectively disallowed any level of normal and routine travel expenses for President, Mr. Brown and Vice President, Ms. Chase. Witness Allen testified that there is a reasonable and necessary amount of travel expense that is incurred for normal routine utility-related business. As such, WMSI argued that transportation expense should be increased by \$8,916. Witness Allen stated that the requested transportation expenses were based on estimates of the actual costs incurred and documented on an annual basis for 2011, the first year that the Utility was required to maintain such documentation for these two employees. WMSI witness Brown testified that, while the Utility requested only \$8,916, WMSI recorded a total annual reimbursement of \$9,323, on its books.

In its MFRs, the Utility reflected a net adjustment for transportation expense of \$3,177. Witness Allen's testimony addressed the several adjustments we made to transportation expense, including the reversal of the adjustment for test year expenses of \$3,177 and a further reduction of \$5,739 for expenses deemed non-utility related. Witness Allen stated that this net adjustment was comprised of reductions for certain gas purchases and repairs and maintenance costs totaling \$5,739 that the Utility recognized should have been removed from test year expenses and an estimate for mileage reimbursements of \$6,096 for Mr. Brown and \$2,829 for Ms. Chase, totaling \$8,916.

Witness Allen testified that we approved similar travel related expenses for office employees in the past as reasonable and necessary, and opined that to deny any level of expenses now is unreasonable. In support, witness Allen testified that the Utility began maintaining mileage logs for the office staff in accordance with the final order in the previous case, which was issued on January 3, 2011. Witness Allen noted that the show cause order,¹¹ clarified that the 1994 order requiring mileage logs applied only to the field employees. Accordingly, witness Allen contended that there was no requirement for Mr. Brown and Ms. Chase to maintain mileage logs in the test year for the current docket. The Utility argued in its post-hearing brief that we should either accept the mileage logs from 2011 as reasonable transportation expense in 2010 or impute a reasonable amount as we had done before.

¹¹ See Order No. PSC-11-0250-FOF-WU, issued June 13, 2011, Docket No. 100104-WU, In re: Application for increase in water rates in Franklin County by Water Management Services, Inc., pp. 4-5.

OPC witness Schultz testified that the Utility's transportation costs should be disallowed because WMSI failed to provide the appropriate supporting mileage logs. According to witness Schultz, WMSI's attempt to offer the 2011 logs as a surrogate for 2010 costs is an after-the-fact step to correct for past errors. As such, witness Schultz stated that our disallowance is appropriate since the Utility was effectively put on notice in the last rate case in regard to the documentation necessary in order to be compensated for the costs in question. Witness Schultz stated that the Utility failed to meet its obligation in this case. Witness Schultz added that when a utility seeks recovery of costs in a rate case, it must have documentation to support those costs.

In its post-hearing brief, OPC argued that WMSI provided no evidence supporting why Mr. Brown, Ms. Chase, and the other administrative staff are not located nearer to the actual operations of the Utility. Additionally, OPC argued that it was unclear how customers and WMSI benefited from the Utility having two offices located many miles apart. As such, OPC contended that it was not in the best interest of the customers to continue paying this transportation expense. According to OPC, the Utility has not supported its request for transportation expense, has failed to carry its burden of proof on its protested issue, and as a result, overall rate case expense should be reduced by 1/12. We address current rate case expense and any potential adjustments below.

In the PAA Order, we decreased transportation expense by \$8,989.¹² A small portion of that adjustment, \$73, was related to unsupported transportation expense identified in the staff audit. Based on the record, we find that the \$73 associated with unsupported transportation expense is uncontested and, as a result, has been carried over with the non-protested adjustments made in the PAA Order and identified in Attachment A and Schedule 3-B to this Order. The remainder, \$8,916 (\$8,989 - \$73), has been protested and is discussed below.

While the Utility was effectively put on notice in the 1994 order that travel records would be required in future proceedings, we note that there was no "formal" requirement that they maintain mileage logs for administrative staff until our decision in January 2011.¹³ Prior to the issuance of Order No. 11-0010-SC-WU in the last rate case, there was no order or requirement for Mr. Brown or Ms. Chase to maintain individual travel logs for the company vehicles. As such, the first year that the Utility was required to maintain such documentation for Mr. Brown and Ms. Chase was 2011. Mileage logs would have been a valuable expense tracking mechanism for management, but without a requirement that logs be kept for Mr. Brown and Ms. Chase until the last rate case, the Utility shall be allowed to recover a reasonable and necessary amount of travel expense incurred for routine utility-related business.

In the absence of actual mileage logs for the test year, the mileage logs provided by the Utility for 2011 represent a good starting point. Ratemaking is prospective in nature and it is our practice to make known and measurable changes.¹⁴ The logs reflect a total of \$9,323¹⁵ in actual

¹² See Order No. PSC-12-0435-PAA-WU, p. 19.

¹³ See Order No. PSC-11-0010-SC-WU.

¹⁴ See Order Nos. PSC-12-0179-FOF-EI, issued April 3, 2012, in Docket No. 110138-EI, In re: Petition for increase in rates by Gulf Power Company, pp. 11-12; PSC-11-0199-PAA-WU, issued April 22, 2011, in Docket No. 100149-WU, In re: Application for increase in water rates in Lee County by Ni Florida, LLC, p. 9; and PSC-08-0622-PAA-

transportation expense for Mr. Brown and Ms. Chase in 2011. The Utility used this amount to estimate expenses for 2010, which it determined to be \$8,916, some 4.35 percent less than the 2011 mileage logs. However, the Utility did not provide an explanation of what was included in the 4.35 percent reduction.

Based on the record, additional adjustments shall be made for mileage that appeared to be out of the ordinary and lacked explanation. We identified two entries, both in Mr. Brown's mileage logs, that shall be removed from the Utility's transportation expense. The first adjustment relates to an entry for 450 miles to St. Petersburg in February 2011. The second relates to an entry for 592 miles to Bradenton in September 2011. In both instances, no explanation was provided for mileage which was clearly outside the Utility's service territory. In another September entry, the Utility provided an explanation for mileage to Orlando when it related to a Commission-sponsored workshop. No such explanation was provided for the St. Petersburg or Bradenton mileage. Thus, the amounts associated with those entries shall be removed from Mr. Brown's mileage reimbursement.

No detailed explanation of what was excluded from the Utility's estimated expenses was provided, so it is not known whether the Utility included any mileage adjustments in its estimated expenses or not. Consequently, Mr. Brown's 2011 mileage reimbursement shall be reduced by \$270 (450 miles x \$0.60) for St. Petersburg mileage, and by an additional \$355 (592 miles x \$0.60) for Bradenton mileage, for a total of \$625 (\$270 + \$355). Thus, we find that the 2011 mileage reimbursement for Mr. Brown is approximately \$5,434 (\$6,059¹⁶ - \$625). Given this adjustment, the total actual mileage reimbursement for Mr. Brown and Ms. Chase shall be \$8,698 (\$5,434 + \$3,264).

We find that the appropriate adjustment is the difference between the Utility's estimated transportation expense and the adjusted 2011 mileage reimbursement. This represents a difference of \$218 (\$8,916 - \$8,698). Accordingly, the correct adjustment in Schedule 3-B, attached to this Order shall reflect a decrease in transportation expense of \$218.

Adjustment to rate case expense previously authorized by Order No. PSC-11-0010-SC-WU

In its brief, WMSI argued that OPC's concerns that the Utility will not pay prior rate case expense are without justification and contrary to WMSI witness Brown's testimony and that the suggestion of removing unpaid prior rate case expense that is currently embedded in rates, or requiring WMSI to establish a repayment schedule, is without any support of law or fact.

WMSI witness Brown testified that if the prior Commission-approved rate case expense of \$229,000 was spread over 48 months, it would essentially require payment of \$4,771 per month (\$229,000/48). Witness Brown testified that there is no Commission rule requiring all rate case expenses to be paid within the four-year amortization period. Witness Brown testified

WS, issued September 24, 2008, in Docket No, 060540-WU, In re: Application for increase in water rates in Pasco County by Colonial Manor Utility Company, p. 10.

¹⁵ Approximately \$6,059 of actual expense for Mr. Brown and \$3,264 for Ms. Chase were documented in the record, totaling \$9,323 (\$6,059 + \$3,264). (EXH 7)

¹⁶ Id.

that the Utility is now paying \$4,500 a month. WMSI has agreed to pay \$2,000 per month to Radey, Thomas, Yon, and Clark (RTYC), \$2,000 per month to Frank Seidman, and \$500 per month to Post, Buckley, Schuh, and Jernigan (PBSJ). Of those amounts, witness Brown stated that OPC appeared to be most concerned with the RTYC bill and related payments. Witness Brown testified that WMSI and RTYC have agreed to the \$2,000 per month payments until paid, or until WMSI is sold. Witness Brown opined that the amounts referenced above are reasonable and should not be disturbed.

OPC argued that it is undisputed that the Utility stopped making payments to its law firm during the last rate case and then attempted to negotiate a legal bill less than the amount authorized by Order No. PSC-11-0010-SC-WU. OPC recommended that we remove from rates the remaining balance of unpaid legal fees previously approved by the Commission effective the date of the administrative hearing. Recognizing that this is a case of first impression for the Commission, OPC contended that the circumstances are extraordinary in nature and, as a result, we have authority to alter previously issued final rate orders.

Further, in light of the Utility's alleged slow payment of rate case expense to other consultants from the last rate case, OPC asked us to consider removing all or some of the previously-approved rate case expense for the other consultants which at the time of the contested hearing still remains unpaid. OPC claimed that it is only fair that the Utility's customers not be required to pay rate case expense when there is a history of non-payment and no assurance that the Utility will continue making payments following the conclusion of this contested proceeding. OPC further argued that, if any portion of previously authorized rate case expense remains in rates, we should require the filing of quarterly reports in the docket file, showing the amounts being paid and the remaining balance, in order to verify that the Utility is complying with our order.

OPC also argued that we remove from rates the remaining balance of unpaid legal fees previously approved in Order No. PSC-11-0010-SC-WU, effective the date of the administrative hearing. OPC argued that since WMSI has been on notice since the date of OPC's protest, the issue of retroactive ratemaking to remove the rates does not attach. OPC recognizes that this is a case of first impression which the Commission has never addressed. As the basis for the reduction of previously awarded prior rate case expense, OPC argued that evidence at the hearing showed that WMSI initially failed to pay its attorneys and consultants and that, even if WMSI is currently paying through installment plans, OPC is concerned that the Utility will cease to make future payments on the amount owed. WMSI argued that the evidence adduced at the hearing is that WMSI is paying its rate case expense and that there is no requirement that the rate case expense be paid in full immediately or within the 4 year amortization period.

OPC presented no competent substantial evidence to allow this form of extraordinary relief. OPC's witness stated that she was "concerned" that the Utility will fail to pay its consultant fees in the future. The evidence in the record shows that for a time, while a fee dispute was pending, the Utility did not pay its prior law firm and that the Utility had not paid consultants in full after the case. The evidence on record also shows that the Utility has continued to make payments to its attorneys and consultants on a monthly basis. WMSI is

correct in its assertion that there is no requirement that the Utility pay its consultants in full immediately at the conclusion of a rate case. Fee disputes are outside the purview of the Commission as they would involve contractual agreements between private parties. Deltona Corp. v. Mayo, 342 So. 2d 510, 512 (Fla. 1977).

The removal of the unpaid legal fees from rates set by Order No. PSC-11-0010-SC-WU, the final order issued in the now-closed rate case, raises the applicability of the doctrine of administrative finality. This doctrine provides that there must be a "terminal point in every proceeding both administrative and judicial, at which the parties and the public may rely on a decision as being final and dispositive of the rights and issues involved therein." Austin Tupler Trucking, Inc. v. Hawkins, 377 So. 2d 679, 681 (Fla. 1979).¹⁷ In Peoples Gas System v. Mason, 187 So. 2d. 335, 339 (Fla. 1966), the Court cautioned against a too doctrinaire approach to the application of administrative finality and recognized exceptions to the doctrine. The Court held that a decision, once final, may only be modified if there is a significant change in circumstances or if modification is required in the public interest. This Commission, citing Peoples Gas System v. Mason, has found that finality will not apply where it is shown that some mistake, misrepresentation, or fraud, or a matter of great public interest compels its review.¹⁸ In this case, there is no competent, substantial evidence showing any of those circumstances to exist or that the issue is a matter of great public interest.

We find that it is not necessary or appropriate to take any of the actions suggested by OPC at this time. In the prior rate case, we authorized \$229,180 in rate case expense by Order No. PSC-11-0010-SC-WU, issued January 3, 2011. We found that amount of rate case expense to be reasonable and, for purposes of setting customer rates, the amount was amortized over a four-year period, or \$57,295 per year. We find, based on the record in these proceedings, that WMSI is making payments to its consultants with outstanding balances stemming from the last rate case. Witness Brown testified that he is paying \$4,500 a month, with \$2,000 being paid to RTYC, \$2,000 to M & R Consultants, Inc. (Frank Seidman), and \$500 to PBSJ. These payments, along with our approved prior rate case expense, estimated balances, and the approximate number of months to payoff, are summarized in Table 2, below.

¹⁷ See also: Reedy Creek Utils. Co. v. Florida Pub. Serv. Comm'n, 418 So. 2d 249 (Fla. 1982); Fla. Power Corp. v. Garcia, 780 So. 2d 34 (Fla. 2001); McCaw Communications of Florida, Inc. v. Clark, 679 So. 2d 1177, 1179 (Fla. 1996); Fla. Power & Light Co. v. Beard, 626 So. 2d 660 (Fla. 1993).

¹⁸ See Order No. PSC-07-0816-FOF-EI, issued October 10, 2007, in Docket No. 060658-EI, In re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million.

Table 2

Prior Rate Case Expense Summary					
<u>Consultant</u>	<u>Prior Commission-Approved Rate Case Expense</u>	<u>Est. Prior Commission-Approved Rate Case Expense, As of 10/10/12*</u>	<u>Est. Prior Commission-Approved Rate Case Expense, As of 3/31/13¹⁹</u>	<u>WMSI's Monthly Payments on Prior Rate Case Expense**</u>	<u>Approximate Months to Payoff***</u>
RTYC	\$150,423	\$120,423	\$110,423	\$2,000	56
M & R Consultants, Inc. – Seidman	65,428	34,921 ²⁰	24,921	2,000	13
PBSJ	2,879	1,379 ²¹	0	500	--
Barbara Withers	2,700	0	0	--	--
Other	<u>7,750</u>	<u>0</u>	<u>0</u>	--	--
Total	<u>\$229,180</u>	<u>\$156,723</u>	<u>\$135,344</u>	<u>\$4,500</u>	--

***Using the estimated balances as of March 31, 2013.

OPC argued that although WMSI's ratepayers are paying for the Utility's prior rate case expense in their current rates, there is no subsequent written agreement or guarantee that WMSI will continue making payments to RTYC after this contested proceeding concludes. While there may have been some delay in payment between WMSI and its consultants in regard to prior rate case expense, Witness Brown has made a commitment to paying these expenses off in a timely manner. Thus, we find that based on the evidence on record, the Utility is making regular payments.

WMSI witness Brown stated in his testimony that if a \$2,000 per month payment was acceptable to RTYC and WMSI, it should be acceptable to OPC. Additionally, as witness Brown stated, and OPC witness Vandiver testified in cross examination at the hearing, there is no Commission requirement that rate case expense be paid off during the four-year amortization period. There are still almost two years remaining of the four-year amortization period and WMSI is making payments. In the event that the Utility stops making payments or defaults on the obligations outlined above, the matter would be better suited for a court of competent jurisdiction as we have no equitable powers.²² Thus, we find that the payments referenced in

¹⁹ Using the payment information contained in the record, Table 2 calculates an estimated unpaid rate case expense balance as of March 31, 2013.

²⁰ This amount differs from the amount discussed in another section of the Utility's response to OPC's First Set of Interrogatories (Nos. 1-16). A Utility response indicated that the estimated remaining amount for M & R Consultants, Inc. to be \$20,154 (\$65,428 - \$45,274), while an exhibit attached to the response showing rate case expense payments reflected the amount referenced in Table 2. We adopt the calculations in the exhibit attached to the response because it shows payments through October 10, 2012.

²¹ Last payment due to PBSJ in 2013.

²² See Order No. PSC-05-0975-FOF-TP, issued October 11, 2005, in Docket No. 040130-TP, In re: Joint petition by NewSouth Communications Corp., NuVox Communications, Inc., and Xspedius Communications, LLC, on behalf of its operating subsidiaries Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Jacksonville, LLC, for arbitration of certain issues arising in negotiation of interconnection agreement with BellSouth Telecommunications, Inc., p. 15.

Table 2 are reasonable. Thus, no adjustment shall be made to rate case expense previously authorized by Order No. PSC-11-0010-SC-WU.

Rate case expense associated with the protest of Order No. PSC-12-0435-PAA-WU

WMSI argued that but for OPC's protest, none of the Utility's incremental rate case expense would have been necessary. According to the Utility, OPC's main complaints center around the use of two witnesses, duplicative testimony, and several motions and notices. In addition, the Utility contends that OPC's recommendation to file monthly reports to monitor the payment of rate case expense is unnecessary since there is no requirement to pay rate case expense immediately. The Utility asserted that it filed this rate case under the PAA procedures in an effort to minimize rate case expense. The Utility argued that even though it did not receive the desired revenue requirement in the PAA Order, the expense associated with an evidentiary hearing did not justify it moving forward with a protest. The Utility contends that it was hard to understand OPC's argument that WMSI's rate case expense is excessive, when OPC chose to initiate the hearing process.

WMSI witness Allen testified that the appropriate amount of rate case expense for the formal administrative proceeding is \$105,362, representing the expenses that have and will be incurred due to the protest filed by OPC. The Utility's post-hearing brief argued that WMSI should recover \$136,565. Witness Allen opined that the rate case expense for legal expenses, consulting expenses, and related filing and notice expenses are reasonable and necessary. Likewise, WMSI witness Guastella testified that he does not agree with OPC's recommendations regarding rate case expenses. Witness Guastella testified that rate case expenses are an unavoidable cost of providing service and failure to allow such costs would be contrary to the legal guidepost decision of the Supreme Court, Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944). According to witness Guastella, WMSI has incurred rate case expense for "issues" that did not require a formal proceeding. Witness Guastella testified that, given these circumstances, disallowing these expenses would be particularly unreasonable.

WMSI witness Brown testified that this should have been a fairly routine rate case, but because of OPC's actions, the Utility had to hire expert representation. In regard to the various arguments surrounding rate case expense, witness Brown testified that OPC's lawyers are paid without fail and their experts are paid by the state with no review by this Commission. Brown further testified that WMSI's lawyers and experts deserve to be paid on the same basis, especially since this protested proceeding was brought by OPC.

OPC witness Vandiver testified that we have the discretion to remove all rate case expense that is unreasonable or unsupported. OPC argued that the remainder of rate case expense should be apportioned between the issues, consistent with the lodestar method used by the Commission in Order No. PSC-94-0738-FOF-TP, issued June 15, 1994.²³ OPC went on to argue that a utility should not be allowed to cross-protest issues, and protest additional, costly

²³ Docket No. 900386-WU, In Re: Application for a Rate Increase in Marion County by Sunshine Utilities of Central Florida, Inc.

issues, simply because another party protested the PAA Order. In its post-hearing brief, OPC asserted that it protested four issues and the Utility cross-protested eight issues, six of which total less than three percent of the revenue requirement included in the PAA Order. OPC further argued that allowable rate case expense should only include expenses that directly relate to protested issues or areas. If it relates to non-protested issues, OPC argues, rate case expense should be disallowed and borne by the Utility as a cost of doing business.²⁴

Further, OPC argued that adjustments should be made to postage, FedEx/copies, and expenses related to the St. George Inn for lack of support. According to OPC, rate case expense for Leonard & Withers, CPA should also be disallowed for being unreasonable and not adequately supported. OPC argued that witness Guastella's rate case expense was also unreasonably incurred and duplicative of other testimony. OPC also argued that WMSI witness Allen's post-PAA rate case expense "may" not be adequately supported and suggested that at least 10 percent be disallowed for lack of detailed support. In regard to WMSI's legal fees, OPC argues that the recode does not contain justification for the firm's hourly rate increase from \$340 to \$350 an hour. Additionally, OPC contends that additional adjustments to WMSI's legal costs should be made to remove costs associated with three motions that were subsequently denied, i.e. objections to OPC discovery, responses to OPC's motions to compel, expenses associated with non-protested issues, and a motion for temporary protective order.

OPC requests that additional rate case expense associated with this protest be reduced to disallow the Utility's filing of a cross-protest and several motions. OPC argued that the costs were unreasonable and imprudently incurred. As grounds for its request, OPC first argued that the Utility should not have raised new issues in its cross-protest.²⁵ Under Rule 25-22.029(3), F.A.C., any person substantially affected by the proposed agency action may file a cross protest. There is no prohibition in the rule against raising additional issues in the cross-protest. The Utility was substantially affected by the PAA Order issued in this case. Thus, the Utility is entitled to raise issues it deems should be protested, given that opportunity was presented by OPC filing its initial PAA protest.

OPC further argued that the Utility should not recover rate case expense incurred by the filing of motions that were denied partially or in toto. In support, OPC cited Order No. PSC-94-0738-FOF-WU,²⁶ wherein we denied a portion of rate case expense for issues raised on appeal in which the Utility did not prevail. However, the case can be distinguished from the instant case on the basis that the matter did not involve a protest. The matter involved an appeal and, as policy, we specifically stated: "if the Commission took the position that any appeal taken by a utility is inherently reasonable, then utilities would be encouraged to appeal all orders as a matter of course to the ultimate detriment of the ratepayers who would be paying the bill for their lack of discrimination as to issues that truly shall be appealed." There are no Commission orders denying rate case expense for motions in which a Utility does not prevail or partly prevails.

²⁴ Since, in this protest, all non-protested issues are deemed stipulated, this particular argument is unclear.

²⁵ WMSI's protest raised issues contained in the PAA.

²⁶ See Order No. PSC-94-0738-FOF-WU, issued June 15, 1994, in Docket No. 900386-WU, In re: Application for a rate increase in Marion County by Sunshine Utilities of Central Florida, Inc.

Last, OPC argued that the Commission should disallow legal rate case expense for what it terms the excessive use of block billing. In support, OPC argued that the use of block billing prevents review of the adequacy of the expense as it does not contain sufficient detail. We find that WMSI's billing is no different than the manner of billing in other rate cases before the Commission.

In total, OPC proposed the removal of \$37,587 from rate case expense as unsupported or unreasonable, and argued that the remaining \$98,978 should be apportioned among the 12 contested issues. In its post-hearing brief, OPC recommended total rate case expense of \$88,691, a reduction of \$47,875 from the amount requested by WMSI.

As part of WMSI witness Allen's direct testimony, the Utility included an estimate of \$105,362 for current rate case expense. The record contains an update of the actual rate case expense incurred for the protest, with supporting documentation, as well as the estimated amount to complete the case. In its updated actual costs and revised estimated rate case expense through completion of the protest period the Utility claimed \$136,565. Based on the record, we find that the actual and estimate to complete is \$133,059 as shown in the table below.

Table 3

<u>Description</u>	<u>WMSI Estimated</u>	<u>Actual as of Jan. 14, 2013</u>	<u>Additional Estimated</u>	<u>Total</u>
Sundstrom, Friedman & Fumero, LLP	\$71,422	\$48,173	\$45,750	\$93,923
Law, Reed, Crona & Munroe, P.A.	11,470	8,029	7,881	15,910 ²⁷
Leonard & Withers, CPAs, PL	0	3,036	0	3,036
Guastella Associates, LLC	18,970	16,090	0	16,090 ²⁸
Postage	1,500	600	0	600
FedEx/Copies	2,000	88	2,412	2,500
St. George Inn	0	0	1,000	1,000
Total Rate Case Expense	<u>\$105,362</u>	<u>\$76,016</u>	<u>\$57,043</u>	<u>\$133,059²⁹</u>

Pursuant to Section 367.081(7), F.S., we determine the reasonableness of rate case expense and shall disallow all rate case expense determined to be unreasonable. Upon review of the record including requested actual expenses, supporting documentation, and estimated expenses as listed above for the post-PAA rate case we find that several adjustments are necessary to the Utility's rate case expense estimate as described below.

²⁷ This amount differs from what the Utility calculated in its actual and estimate to complete for Law, Reed, Crona & Munroe, P.A., which was \$16,817. The difference between the Utility's calculation and staff's calculation is approximately \$907 (\$16,817 - \$15,910).

²⁸ This amount differs from what the Utility calculated in its actual and estimate to complete for Guastella Associates, LLC, which was \$18,690. The difference between the Utility's calculation and our calculation is approximately \$2,600 (\$18,690 - \$16,090).

²⁹ As noted above, the total differs from what the Utility calculated in its actual and estimate to complete by \$3,507 (\$907 + \$2,600).

Sundstrom, Friedman & Fumero, LLP (SFF)

The first adjustment relates to the Utility's actual legal fees and its estimated legal fees to complete the case. WMSI requested total legal fees for SFF of \$93,923, which was comprised of \$48,173 in actual costs and \$45,750 in estimated fees to complete the rate case. The rate charged per hour increased from \$340 to \$350 at some point during the protest. The Utility provided no support for the hourly increase. As such, we find that there was no justification for the firm's hourly rate increase and the reason the increase should be considered reasonable and included in rate case expense. Moreover, we used a \$340 hourly rate in the PAA Order, and absent additional information, the same rate shall be applied here. Accordingly, the rate case expense shall remain at the hourly rate of \$340 in all legal expense calculations.

In regard to actual fees and costs, SFF provided documents indicating billed and unbilled fees of \$46,222, and unbilled costs (i.e., FedEx, travel expenses, photocopies) of \$1,951, totaling \$48,173. In its post-hearing brief, OPC recommended reducing the rate case expense associated with SFF's actual fees and costs to \$33,456. Upon review of the record evidence, several adjustments shall be made to SFF's 131.2 billed and unbilled hours. We find that these adjustments are necessary to remove time associated with OPC's deposition of WMSI witness Mitchell, the withdrawal of previously filed testimony, and various escrow account requests. As such, 3 hours for the deposition of witness Mitchell on November 6, 2012 shall be removed. We find the reduction warranted since the witness was instructed not to respond to many of the deposition questions posed by OPC. The record shows that the deposition commenced at 2:05 p.m. and concluded at 3:32 p.m. that day, lasting approximately 1.5 hours. An additional adjustment shall be made to remove time billed for conference time with witness Mitchell (and others) before and after the deposition. Given the use of block billing, it was unclear from the supporting documentation exactly how much time should be removed. Absent other information, we find that removing from rate case expense 1.5 hours for the conference time before and after the deposition is reasonable and the amount shall be removed from rate case expense. We find that no additional adjustment for travel related hours or expenses is necessary since SFF's billing statements indicated other activities, including another deposition, took place during that time frame.

We find that an adjustment of 1 hour shall be made for the withdrawal of previously filed testimony. While the Utility noted 3.7 hours for an entry that included "research and draft notice of withdrawal of pre-filed testimony," several other activities were also included. The Utility provided no evidence as to the exact amount of time billed for the withdrawal of prefiled testimony. Thus, we find that one hour is a reasonable time for the adjustment. We also find that additional adjustments for expenses related to the withdrawal of escrow funds did not specifically relate to protested portions of the PAA Order.

WMSI argued that it was entitled to the rate case expense requested, while OPC argued for a finding that the total number of hours spent on non-protested issues be 15.30 hours because of the extensive use of "block billing." Since neither party protested the PAA Order escrow account requirements, we find that it is appropriate to remove approximately 8 hours based on

the billing statements provided by SFF. Accordingly, SFF's billed and unbilled hours shall be reduced by 12 hours, or \$4,080 (12 hours x \$340).

SFF estimated a total of 122 hours would be necessary to complete the case. As part of the estimate, SFF included 52 hours to prepare for the hearing, travel to and from St. George Island, and attend two days of hearing. The record shows that in an earlier estimate, WMSI claimed 38 hours for these tasks. We find that the 52 hour estimate seems excessive, particularly when no explanation or evidence to support the increase in estimated hours. The hearing transcripts show that the first day of the hearing began at 10:05 a.m. and ended at 6:37 p.m., which amounts to roughly 8.5 hours (including lunch). On the second day, the hearing lasted 3 hours, beginning at 9:30 a.m. and ending at 12:30 p.m. In total, we find that the service and technical hearings took approximately 11.5 hours. As such, we find that the 38-hour estimate to complete the tasks referenced above is more reasonable, especially given the actual amount of time spent at the hearing. Accordingly, the estimated hours to complete shall be reduced by 14 hours, or \$4,760 (14 hours x \$340). Thus, the total estimated hours to complete shall be 108 hours.

Adjustments to estimated costs shall be made to photocopier costs and courier costs for insufficient support. In its post-hearing brief, OPC recommended reducing estimated copier costs by one-half and removing all of the estimated courier costs. There is no evidence on record to support the courier costs. We find that a slightly smaller adjustment of \$150 (versus OPC's \$250) shall be made for estimated copier costs as the Utility's estimate was developed prior to the prehearing and hearing, the additional \$100 amount appropriately covers any copier costs that would arise. Accordingly, estimated copier costs shall be reduced by \$150 and estimated courier expenses shall be reduced by \$100. Based on the above, SFF legal fees shall be reduced by \$10,492.³⁰

Law, Reed, Crona & Munroe, P.A. (LRCM)

The second adjustment relates to the Utility's actual accounting consultant fees and its estimated accounting consultant fees to complete the case. WMSI requested total fees for LRCM of \$16,817. Based on the evidence on record and using the corrected actual expenses we previously mentioned, we find the actual and estimated expense to be \$15,910, comprised of \$8,029 in actual costs and \$7,881 in estimated fees to complete the rate case.

In regard to the LRCM expense, OPC argued that this expense "may" not be adequately supported. OPC also argued that there may be no way to actually verify that the expenses were reasonably incurred. We find that the evidence on record shows that LRCM provided a description of the actions to be performed, as well as the number of actual and estimated hours for each activity. The summary provided here is similar to the information provided to support LRCM rate case expenses during the PAA phase.

³⁰ This adjustment also removes the incremental \$10 per hour (\$350 - \$340) increase for legal costs.

Although not specifically referenced in each of the LRCM adjustments recommended below, an adjustment shall be made to account for the missed opportunities to provide us with insurance documentation during the PAA process. The documentation was available to the Utility and could have been produced in response to data requests, in response to OPC's Issues and Concerns, or at the August 2, 2012 Commission Conference. The insurance documents were not made available to us until the filing of WMSI witness Allen's direct testimony. Had we been provided with a complete and accurate record at the time of the PAA, our determination of adjustments to miscellaneous expense would not have been necessary or protested. We have taken this into account in determining the adjustments that shall be made to LRCM rate case expense below.

In its original rate case expense estimate, LRCM estimated 62 total hours to complete the case. In the Utility's updated filing, LRCM claimed 86 actual and estimated hours. Based on the record, we find that work descriptions remained the same, but the hours required to complete the tasks increased as shown in Table 4, below:

Table 4

<u>Description</u>	<u>Filed w/Allen Direct Testimony</u> ³¹	<u>Actual/Est. as of Jan. 14, 2013</u>	<u>Difference</u>
Meetings with utility, legal counsel, PSC, OPC regarding issues; preparation of pre-filed direct testimony and exhibits	16 hours	20 hours	4 hours
Assist with comments for post-hearing brief and review Staff Recommendations and discussion with client	8 hours	12 hours	4 hours
Total	24 hours	30 hours	8 hours

No additional information or explanation was provided to support the increase in hours for each of the particular tasks. As such, eight hours from LRCM rate case expense shall be removed.

We find that an additional adjustment shall be made to the time associated with the first activity description to account for time related to the filing of WMSI witness Allen's direct testimony. While direct testimony was filed for the protest on October 15, 2012, testimony had previously been filed as part of the PAA in November 2011. The PAA testimony was subsequently withdrawn on September 13, 2012. Witness Allen's testimony in the PAA phase consisted of 41 pages, including exhibits. In the protest, her direct testimony consisted of 68 pages, including exhibits. After reviewing both, we find that a portion of the time requested for preparing direct testimony and exhibits here shall be reduced, especially since portions of the testimony and exhibits had been prepared and included as part of the November 2011 testimony. We find that the expense associated with the preparation of the 2011 testimony and exhibits was included in the PAA-ordered rate case expense, which was not protested. As such, an additional 4 hours shall be removed to avoid the potential recovery of these expenses a second time.

³¹ Witness Allen's direct testimony and exhibits were filed on October 15, 2012.

Finally, 16 hours were added to LRCM's updated rate case expense related to assisting with discovery responses. While witness Allen may have worked with the Utility on certain discovery responses, there is no evidence on record to explain which particular response were worked on or for how long. While WMSI has stated that it is entitled to the requested rate case expense, OPC argued that some or all of witness Allen's rate case expense should be disallowed, and that at least 10 percent of witness Allen's post-PAA rate case expense should be removed. As there is not sufficient evidence in the record detailing the reasons for the costs incurred, an additional 4 hours shall be removed from LRCM rate case expense. Accordingly, accounting consultant fees shall be reduced by 16 hours, or \$2,960 (16 hours x \$185).

Leonard & Withers, CPAs, PL (Withers)

The third adjustment relates to the Utility's actual accounting consultant fees. WMSI requested total fees for Withers of \$3,036. OPC recommended in its post-hearing brief that the entire amount of rate case expense for Withers be disallowed as unreasonable and not adequately supported. In support of its position, OPC asserted that Withers did not participate in the hearing or provide testimony, and the expense was not necessary. However, there is evidence on the record consisting of an invoice from Withers providing an overall description of the services performed and detailed time records.

After reviewing the record evidence, as shown in table 5 below, we find that an adjustment is necessary to remove duplicative expense. We find that Ms. Withers accumulated 11.24 hours and Mr. Leonard (Leonard) 9.24 hours while working on the same tasks. The only task Leonard did not also participate in was the preparation of the letter to WMSI on December 17, 2012.

Table 5

Leonard & Withers, CPAs Detailed Time Records			
Date	Hours - Withers	Hours - Leonard	Description
11/29/2012	1.65	1.65	Meet with WMSI and discuss issues
12/11/2012	1.35	1.20	Read PSC & OPC testimony
12/14/2012	3.50	3.02	Read rebuttal testimony Schultz, Dobiak, Brown
12/15/2012	1.00	1.00	Download cash flow statements and review
12/15/2012	2.50	2.37	Prepare testimony points and review with Mr. Brown
12/17/2012	1.00		Prepare letter for WMSI regarding L&W points
Total	11.00	9.24	

While satisfied with the description offered for the hours, we find that it is not necessary to have a second CPA performing the same exact functions as another, especially in this relatively limited proceeding. Moreover, there is no record evidence or an explanation related to the necessity of these duplicative expenses. As such, the expense related to Leonard's hours shall be removed. Accordingly, the Withers consultant fees shall be reduced by 9.24 hours, or \$1,386 (9.24 hours x \$150).

Guastella Associates, LLC (Guastella)

The fourth adjustment relates to the Utility's actual expert witness fees. WMSI requested total fees for Guastella of \$18,690. Based on the evidence in the record, we find the actual and estimated expense to be \$16,090. We used the actual expenses incurred for purposes of this finding. OPC argued that Guastella's rate case expenses were unreasonably incurred since they were duplicative and designed to bolster other testimony. OPC also argued that it is unreasonable for WMSI's customers to incur additional rate case expense for a witness testifying on the same issues as another witness.

WMSI countered, arguing that the complaint about duplicative testimony is "without factual support." The Utility argues that because witness Allen prepared the rate case MFRs, it was natural for her to testify, just as it was for witness Guastella to testify on cash advances and other issues. According to WMSI's post-hearing brief, witness Allen generally addressed the issues which the Utility cross-protested and the common issue of service availability charges, while witness Guastella addressed cash advances and the salary reduction issue. WMSI added that the division of testimony described above is similar to that of OPC. However, we find that adjustments to the expense are still required as discussed below.

The Utility provided four invoices/billing statements that we used to examine Guastella rate case expense, dated: October 15, November 15, December 7, and December 31, 2012. (EXH 71, BSP 373-376) The statement dated October 15, 2012, contained \$4,690 (14 hours x \$335) for Principal 1 and \$200 (4 hours x \$50) for Administrative,³² for a total of \$4,890 (\$4,690 + \$200). The invoice contained the following description which was applicable to all charges:

Consulting services in connection with PSC Docket No. 110200-WU OPC Protest. Examine Commission Orders, protest and response, WMSI analyses and Annual Reports to PSC. Prepare direct testimony and review testimony of other WMSI witnesses. Related discussions with WMSI and attorney.

The November 15, 2012, statement did not add any new charges, addressing only the previous balance. The December 7, 2012, invoice included additional charges of \$13 (0.25 hours x \$50) for Administrative only. Finally, the December 31, 2012, invoice added \$10,888 (\$335/hr. x 32.5 hours) for Principal 1 and \$300 (6 hours x \$50) for Administrative, for a total of \$11,188 (\$10,888 + \$300) in new charges. The invoice contained the following description which was applicable to all charges:

Prepare responses to IROG's (Staff's 3rd set and OPC's 5th set); review working capital calculation and issue; review testimony of PSC Staff and OPC witnesses; review drafts and final of G.B. rebuttal testimony; prepare drafts and final JFG rebuttal testimony; review drafts and final of J. Allen testimony; related correspondence and telephone discussion.

³² Both "Administrative" and "Administration" are used in Guastella Associates, LLC's invoices/billing statements. We use "Administrative" for purposes of this Order.

Based on the information available, we find that adjustments are necessary to the time and corresponding expense for both Principal 1 and Administrative due to the lack of detailed support. A total of 46.5 hours were billed for Principal 1, and 10.25 hours for Administrative, but there was no detailed accounting of the time spent by each on the particular tasks described above. While the lack of detail makes it more difficult to review the expense for reasonableness, some portion of the requested expense is justified, especially since testimony was filed and other services were rendered. We also considered the fact that witness Guastella's direct and rebuttal testimony totaled only 16 pages combined.

Our adjustments for Principal 1 focus on the December 31, 2012, invoice. As noted on the invoice, much of the work related to the review of other witness testimony and the preparation of witness Guastella's rebuttal testimony. However, given the lack of detailed support, it is difficult to determine how much time was spent on each task. For this particular invoice, we find that 14 hours is a reasonable amount of time to complete the type of work performed, especially when compared to the October 15, 2012, invoice. Guastella's fees shall be reduced by 18.5 hours (32.5 hours - 14 hours) for Principal 1, or \$6,198 (18.5 hours x \$335). In regard to Administrative costs, an adjustment is necessary given the lack of detailed support. OPC witness Vandiver recommended "the Commission continue its detailed review and disallow any post-PAA protest costs that the Utility fails to document consistent with past Commission precedent." As such, we find that 5.125 hours is a reasonable amount of time to complete the administrative portion of the tasks in regard to Administrative costs. This represents one-half of the Administrative time submitted. As such, these costs shall be reduced by 5.125 hours (10.25 hours - 5.125 hours) for Administrative, or \$256 (5.125 hours x \$50). Accordingly, the Guastella expense shall be reduced by \$6,454 (\$6,198 + \$256).

Postage

The fifth adjustment relates to the Utility's expenses for postage. The Utility included \$1,500 in its initial rate case expense estimates and later reduced the amount to \$600. There was no supporting evidence on record in the Utility's updated rate case expense filing. However, a partial Pitney Bowes statement showing three postage meter refills for \$600 each was included in another filing. No additional support or explanation was provided by the Utility to help justify the reasonableness of the expense. As a result, we are unable to determine whether the postage expense was related to the protest or if it was part of the Utility's normal day-to-day operations. We find that this expense shall be disallowed. Accordingly, all \$600 requested postage expense shall be removed.

FedEx/Copies

The sixth adjustment relates to the Utility's FedEx/copy expenses. The Utility included \$2,000 in its initial rate case expense estimates and later increased the amount to \$2,500. There was no evidence on record for the Utility's updated rate case expense filing. However, there is evidence of two FedEx invoices, one for \$46 and another for \$42. The first shipment was sent

from WMSI to its attorney and the other from WMSI to witness Guastella. Both shipments took place during the protest phase. As such \$88 (\$46 + \$42) of the FedEx expense shall be allowed.

The Utility also provided several Office Depot order confirmations that showed a variety of office products, including copy paper and a toner cartridge. The Utility also provided the corresponding American Express statements and proof of payments in support of this expense. However, there is no record evidence to explain the reason this Utility expense was justified and reasonable. We find that there is no evidence on record to determine whether the copy expense was related to the protest or if it was part of the Utility's normal day-to-day operations. Thus, the remaining FedEx/copy expense shall be disallowed. Accordingly, \$2,412 (\$2,500 - \$88) of FedEx/copy expense shall be removed.

St. George Inn

The final adjustment relates to the Utility's lodging expenses at the St. George Inn. The Utility included \$1,000 in expenses for the St. George Inn in its updated rate case expense, but provided no additional explanation or support. There is no evidence on record to show whether this lodging expense was for WMSI witnesses Brown and Allen related to the technical hearing held in mid-January. Although no invoices would have been available when the Utility filed its updated rate case expense on January 14, 2013, the Utility could have filed some level of documentation in regard to this expense, such as reservation confirmations from the hotel showing the room rate and expected check-in and check-out dates. However, we were able to determine a reasonable amount for lodging expense as we have done on previous occasions.³³ The room rate at the St. George Inn is approximately \$129 per night. As such, staff recommends that \$516 (\$129 x 4 nights) is a reasonable amount for lodging expense. Accordingly, \$484 (\$1,000 - \$516) of lodging expense shall be removed.

Quarterly Reporting

OPC suggested that we require WMSI to make quarterly reports showing that payments are being made to vendors from the rate case expenses collected from its customers. While we recognize that our enforcement powers are limited, that the record reflects that WMSI's vendors are being paid, and the Utility has stated that it is committed to paying all rate case expense, we find that there have been issues in the past with the Utility making its payments. Accordingly, the Utility shall include in its quarterly reports documentation regarding the amount vendors have been paid each quarter. In addition, the Utility shall file affidavits from the vendors when they have been paid in full.

It is the Utility's burden to justify its requested costs.³⁴ Further, we have broad discretion with respect to the allowance of rate case expense. It would constitute an abuse of discretion to automatically award rate case expense without reference to the prudence of the costs incurred in

³³ Order Nos. PSC-08-0812-PAA-WS, issued December 16, 2008, in Docket No. 070695-WS, In re: Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company, p. 12; PSC-07-0205-PAA-WS, issued March 6, 2007, in Docket No. 060258-WS, In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp., p. 26.

³⁴ See Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982).

the rate case proceedings.³⁵ Thus, WMSI's revised rate case expense shall be decreased by \$27,068. The appropriate total rate case expense shall be \$108,271. The breakdown of rate case expense is as follows:

Table 6

<u>Description</u>	<u>WMSI Estimated</u>	<u>Utility Revised Actual & Estimated</u>	<u>Adjustments</u>	<u>Total</u>
Sundstrom, Friedman & Fumero, LLP	\$71,422	\$93,923	(\$10,492)	\$83,431
Law, Reed, Crona & Munroe, P.A.	11,470	15,910	(2,960)	12,950
Leonard & Withers, CPAs, PL	0	3,036	(1,386)	1,650
Guastella Associates, LLC	18,970	16,090	(6,454)	9,636
Postage	1,500	600	(600)	0
FedEx/Copies	2,000	2,500	(2,412)	88
St. George Inn	0	1,000	(484)	516
Total Rate Case Expense	<u>\$105,362</u>	<u>\$133,059</u>	<u>(\$24,788)</u>	<u>\$108,271</u>
Annual Amortization	<u>\$26,341</u>	<u>\$33,265</u>	<u>(\$6,197)</u>	<u>\$27,068</u>

In its post-hearing brief, WMSI requested total rate case expense of \$136,565, which amortized over four years is \$34,141. As explained previously, we found the actual and estimate to complete to be \$133,059, which amortized over four years is \$33,265, and used these amounts for purposes of this finding. By operation of math, the sum of the identified components is less than the amount requested in WMSI's brief. Based on the adjustments approved above, total rate case expense shall be decreased by \$24,788 (\$133,059 - \$108,271), or \$6,197 (\$33,265 - \$27,068) per year.

The total rate case expense shall be amortized over four years, pursuant to Section 367.0816, F.S. Based on the data provided by WMSI and the approved adjustments discussed above, the appropriate amount of rate case expense is \$108,271 for the PAA protest portion of this case. This expense shall be recovered over four years for an annual expense of \$27,068. After adding the rate case expense previously approved in Order No. PSC-12-0435-PAA-WU, total annual rate case expense shall be \$58,197.

Adjustments to miscellaneous expense

The Utility is requesting an adjustment to miscellaneous expense due to an alleged "double reduction" made in the PAA Order where we decreased miscellaneous expense by \$9,320 and capitalized plant in the same amount. This amount was comprised of an adjustment of \$6,735 related to repairs for damage to a drive well and the remainder was related to meters. To correct the error, WMSI witness Allen testified that miscellaneous expense should be

³⁵ See Meadowbrook Util. Sys., Inc. v. FPSC, 518 So. 2d 326, 327 (Fla. 1st DCA 1987), rev. den., 529 So. 2d 694 (Fla. 1988).

increased by \$8,754.³⁶ Witness Allen testified that WMSI received insurance proceeds in the amount of \$8,754 to defray the cost of repairs for damage to Drive Well #4 sustained in a lightning strike. She testified that the proceeds included the \$6,735 which was part of the PAA adjustment, as well as some additional expenses.

According to witness Allen, WMSI recorded a reduction to expenses by the amount of the insurance proceeds received. In support, the Utility provided documentation showing the insurance proceeds received as well as an excerpt of the Utility's general ledger showing the reduction to expenses of the same amount as the proceeds. Witness Allen testified that our adjustment to reduce the expenses further is duplicative of the reduction already reflected in expenses by the Utility. Witness Allen stated that if the credit remains as a reduction to expenses, it assumes going forward that the Utility will receive an insurance reimbursement on an annual basis and that is clearly not going to be the case. OPC did not provide testimony specifically addressing this issue.

While agreeing that a correction to miscellaneous expenses is necessary, we find that the Utility missed numerous opportunities to provide the insurance documentation during the PAA process. The documentation could have been produced in response to data requests, in response to OPC's Issues and Concerns, or at the August 2, 2012 Commission Conference. Instead, the insurance documents were not made available until the filing of witness Allen's direct testimony in the protested portion of this case. Had we been provided with a complete and accurate record at the time of the PAA recommendation, this dispute over miscellaneous expenses would have been avoided. As a result, rate case expense could have been avoided in regard to this particular issue. We addressed this and reduced current rate case expense accordingly above.

As mentioned previously, we decreased miscellaneous expense by \$9,320 and increased capitalized plant in the same amount in the PAA Order.³⁷ That amount was comprised of an adjustment of \$6,735 related to repairs for damage to a drive well and the remainder was related to meters. The meters, totaling \$2,585, were not an issue in this proceeding.

While the insurance proceeds received for the lightning claim total \$8,754, we find that only the portion directly attributable to the repair of the drive well (\$6,735) shall be part of the adjustment contemplated here. Based on the record developed during this phase, we find that our adjustment to reduce miscellaneous expense during the PAA phase was duplicative of the reduction already reflected by the Utility. As such, the \$6,735 of insurance proceeds traceable to the repair of the drive well shall be removed from the adjustments made to miscellaneous expense and plant in the PAA Order. In doing so, the correct adjustments shall be reflected as the portion attributable to the meters only, or \$2,585 (\$9,320 - \$6,735). Corresponding adjustments to correct depreciation expense and accumulated depreciation shall also be made.

³⁶ In its post-hearing brief, the Utility suggested we correct the oversight by increasing miscellaneous expense by \$6,735.

³⁷ We also made a corresponding adjustment of \$298 to depreciation.

Miscellaneous expense shall be decreased by \$2,585, and plant increased by \$2,585. Accordingly, a corresponding adjustment shall also be made to correct depreciation expense so that it reflects an increase of \$129.

Net gain on sale of land and other assets

WMSI witness Brown testified that this issue relates to two investment lots in Tallahassee that Brown Management Group bought from the Utility. He testified that the two lots were erroneously included in the Utility's 2006 Annual Report and subsequently removed in 2007 when they were sold. Witness Brown testified that the two Commonwealth lots were never in rate base, the ratepayers never had any investment or involvement in the lots, and the lots should have never been included in the gain on sale calculation in the last rate case. The witness asserted that the lots' inclusion in the gain on sale calculation in the last rate case has already cost WMSI approximately \$100,000, and charging the Utility another \$153,292, as advocated by OPC, would only compound that mistake.

In its post-hearing brief, the Utility reiterated its argument that including the sale of the Tallahassee lots in the gain on sale was an error. According to WMSI, the gain on sale was not vetted at the hearing and instead, was addressed only through a late filed exhibit. Similarly, WMSI asserted that the Order did not contain any finding that the investment lots were ever included in rate base. The Utility argued that continuing to include assets that were never part of rate base goes against Commission policy and provides ratepayers with an unjust windfall.

OPC witness Schultz testified that the Commission's PAA Order, which recognized a net gain of \$5,794 to be amortized over five years resulting in an annual amortization of \$1,159, omitted the gain on sale adjustment from the last rate case. Witness Schultz testified that in Order No. PSC-11-0010-SC-WU, we determined that there was a gain on sale and ordered the amortization of \$242,040 over five years, for an annual amortization of \$48,408. According to the witness, the remaining amortization of the gain on sale recognized in the last order should be reflected in the rates approved by the Commission in this docket. Schultz testified that based on his calculations, approximately \$153,292 remains to be amortized from the previous rate case and it should be amortized over a three to four year period.

OPC argued in its brief that nothing in the cited orders contemplated resetting the gain on sale amortization within the five-year amortization period in a subsequent rate case. OPC argued that when a utility subsequently files a new rate case within the five-year amortization period, we should take the remaining balance of the previously approved gain on sale amortization, add it to any gain or loss on sale calculated in the subsequent rate case, and amortize that total amount over five years or other period of time which we believe is in the best interest of the utility and its customers. According to OPC's argument, these actions would ensure that customers receive the full benefit of the previously ordered gain on sale.

There is no dispute that over the past five years, WMSI has sold assets that have resulted in both gains and losses. It is our long-standing practice to amortize capital gains from the sale

of specific assets over a period of five years to the benefit of the ratepayers.³⁸ OPC argues that the Final Order from the last rate case constitutes precedent which the Commission should follow. We agree and find that the same methodology utilized to determine the gain on sale in the Final Order from the last rate case was used during the PAA portion of this rate case, as well as in its handling of the gain on sale in the instant docket. While OPC argues that our previous orders do not contemplate resetting the gain on sale amortization within the five-year amortization period in a subsequent rate case, we find that the cited orders do not contemplate handling the unamortized gain on sale the way OPC has suggested.

While the gain (or loss) on sale is amortized over a period of five years beginning with our order in a rate case, it is equally important to examine the underlying transaction details that make up the gain on sale, especially the date of sale or disposition. OPC's primary argument centers on its disagreement with our methodology not to include in our calculation those assets that would otherwise be fully amortized within a year of when the rates would go into effect. Instead of looking at the consistency of the methodology used, OPC argues that we "inexplicably failed to address, reference, or distinguish the prior Final Order" and "failed to mention the fact the Commission ordered the \$242,040 gain on sale be amortized to the benefit of the customers."

While this docket followed closely on the heels of the previous rate case, this was a new rate case, complete with a new test year and updated MFRs. In each rate case, we create the most up-to-date and accurate record of a utility's operations. In doing so, it is not uncommon for us to update calculations from a recent rate case as part of our evaluation of the new rate case when necessary. As a result, some items could fall out of the calculation while other transactions (taking place since the last rate case) could be added. Table 7 outlines our evaluation of WMSI's gain on sale. Several items included in the gain on sale in the Utility's last rate case are not included here, most notably the sale of the Commonwealth lots. At the same time, several transactions were added to the calculation here, that were not part of the calculation in the last rate case.

³⁸ See Order Nos. PSC-07-0205-PAA-WS, issued March 6, 2007, in Docket No. 060258-WS, In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corp; PSC-04-0947-PAA-SU, issued September 28, 2004, in Docket No. 040733-SU, In re: Disposition of gain on sale of land held for future use in Marion County by BFF Corp; PSC-02-1159-PAA-GU, issued August 23, 2002, in Docket No. 020521-GU, In re: Petition for approval to amortize gain on sale of property over five-year period by Florida Public Utilities Company; and PSC-98-0451-FOF-EI, issued March 30, 1998, in Docket No. 970537-EI, In re: 1997 depreciation study by Florida Public Utilities Company, Marianna Division.

Table 7

WMSI Assets Sold (2005-2011)				
Date of Sale	Description	Five-year amort.	Included in gain on sale in Docket No. 100104-WU	Included in gain on sale in Docket No. 110200-WU
03/01/2005	Killearn Ct. Office Bldg.	03/01/2010	No, within 1 year of rates.	N/A, not included in prior calculation.
03/30/2006	Stonehenge Trailer	03/30/2011	No, within 1 year of rates.	N/A, not included in prior calculation.
06/22/2006	2002 Chevy Silverado GN Hitch and Tool Box included	06/22/2011	No, within 1 year of rates.	N/A, not included in prior calculation.
07/01/2006	Units 1 & 2 139 Gulf Beach Dr. (Apts.)*	07/01/2011	No, previously disallowed.	N/A, not included in prior calculation.
12/29/2006	Eastpoint Land, a portion of Lot 7, Bl. 1	12/29/2011	No, within 1 year of rates.	N/A, not included in prior calculation.
02/16/2007	2005 Dump Truck	02/16/2012	Yes	No, within 1 year of rates.
08/14/2007	2001 Truck	08/14/2012	Yes	No, within 1 year of rates.
11/02/2007	Lots 5 & 6 Commonwealth Office Park	11/02/2012	Yes	No, within 1 year of rates.
07/17/2008	2004 GMC Yukon	07/17/2013	Yes	No, within 1 year of rates.
06/04/2009	Easement	06/04/2014	Yes	Yes
07/14/2009	Easement	07/14/2014	Yes	Yes
12/31/2009	Backhoe Trailer	12/31/2014	Yes	Yes
03/10/2010	2008 GMC Truck	03/10/2015	N/A, after test year.	Yes
12/31/2010	2008 Chevy Tahoe	12/31/2015	N/A, after test year.	Yes
01/01/2011	2007 Chevy Tahoe	01/01/2016	N/A, after test year.	Yes
07/19/2011	200 Non-funct. meters	07/19/2016	N/A, after test year.	Yes

* We did not include the sale of the space above the Utility's St. George Island office in Docket No. 100104-WU because it was disallowed in a previous rate case.

Based on our practice, we find that the net capital gains (net of capital losses) on the sale of specific assets shall be recognized and amortized over five years. As discussed previously, we did not include in our calculation those assets that would otherwise be fully amortized within a year of when the rates would go into effect. We find that the following transactions fall into this category and shall not be included in our calculation: (1) disposition of a 2005 dump truck on 2/16/2007; (2) disposition of a 2001 truck on 8/14/2007; (3) disposition of Commonwealth Office Park lots 5 & 6 on 11/1/2007; and, (4) disposition of a 2004 GMC Yukon on 7/17/2008.

Since the Commonwealth lots represent the majority of difference between the prior gain on sale calculation and the current calculation, additional discussion is warranted. The record evidence shows that the Commonwealth lots were sold on November 1, 2007, and the five-year amortization of any gain or loss associated with them would have been complete on November 1, 2012. While the Commonwealth lots referenced here were included in plant-in-service during 2006 and 2007, such inclusion is irrelevant to the gain on sale in the instant case. As witness Brown testified, even if they had been in rate base, the amortization period has expired. As such, we find that there is no competent substantial evidence or argument presented at the hearing or in post hearing briefs that supports a change from the decision reached in the PAA Order with respect to this issue.

Accordingly, we find a net gain of \$5,794. The net gain on sale of land and other specific assets of the Utility shall be amortized over five years, which results in an annual amortization of \$1,159 as calculated in the following table.

Table 8

WMSI Gain/(Loss) on Sale				
Date	Description	Net Book Value	Proceeds/ Sale Price	Gain/(Loss)
06/04/09	Easement	\$0	\$4,000	\$4,000
07/14/09	Easement	\$0	\$500	\$500
12/31/09	Backhoe Trailer	\$4,006	\$10,000	\$5,994
03/10/10	2008 GMC Truck	\$21,713	\$22,612	\$899
12/31/10	2008 Chevy Tahoe	\$37,222	\$35,471	(\$1,751)
01/01/11	2007 Chevy Tahoe	\$17,741	\$13,393	(\$4,348)
07/19/11	200 Non-functioning Meters	\$0	\$500	\$500
Total Gain/(Loss) on Sales				\$5,794
Amortized Gain/(Loss)				\$1,159

Impact of Utility's advances to WMSI's President and associated companies and adjustments to WMSI President's salary

OPC, in its post-hearing brief, stated that "[t]he legal question the Commission must also address is what powers, duties, and authority the Commission has, implied or express, to ensure that a public utility is operated in the public interest." As the legal question was not raised until OPC's post hearing brief, WMSI's brief did not provide legal argument concerning the Commission's authority to order extraordinary relief. WMSI's post hearing brief included arguments of the efficacy of the evidence presented at the hearing.

OPC seeks a finding of managerial imprudence or "managerial negligence."³⁹ Upon such a finding, OPC argued that we have a duty to undertake "proactive measures to ensure that this Utility is managed and operated in the best interests of the Utility and its customers." OPC argued that we have the authority to order what OPC recognizes to be extraordinary relief pursuant to the provisions of Section 367.011(3), F.S., (public interest) and Section 367.121(1)(g), F.S., (the Commission has "authority to exercise all judicial powers, issue all writs and do all things necessary to implement and enforce the provisions of this chapter.")

OPC seeks, in part, an order: (1) implementing "strict managerial oversight of WMSI in order to provide assurances to current and future creditors that they will be timely repaid;" (2) requiring WMSI to discontinue advancing any additional Utility monies for non-utility purposes without express Commission approval and file regular reports and periodic audits of the books to ensure that this requirement is being met; (3) establishing a method whereby the Utility President

³⁹ The term managerial negligence has not been used in Commission Orders and OPC has not defined what is meant by the term.

and associated companies can start repaying the money previously advanced to them in order to restore the financial stability of the Utility, or, in the alternative, (4) imputing an interest component for the \$1.2 million advanced to the President and his companies; and ordering WMSI to transfer the assets of Brown Management Group to WMSI and use the income from those assets for Utility purposes. Finally, OPC seeks an order revoking the rate case expense awarded in the last WMSI rate case⁴⁰ as a sanction for the Utility failing to timely pay its experts and attorneys.

It is axiomatic that the Commission, as an administrative agency, is vested only with the express or implied statutory authority granted by statute. Dep't of Revenue ex rel. Smith v. Selles, 47 So. 3d 916, (Fla. 1st DCA 2010); City of Cape Coral v. GAC Utilities, Inc., 281 So. 2d 493 (Fla. 1973); Teleco Communs. Co. v. Clark, 695 So. 2d 304, 308 (Fla. 1997). Any reasonable doubt as to the lawful existence of a particular power of the Commission must be resolved against it. City of Cape Coral, at 495. Section 367.011(2), F.S., grants power to the Commission with respect to rates. Section 367.121, F.S., details the powers of the Commission with respect to the setting of fair and reasonable rates.

No provision in Chapter 367, F.S., grants the Commission all-encompassing implied or express authority to exercise powers that are expressly reserved to the courts. Florida Bridge Company v. Bevis, 363 So. 2d 799 (Fla. 1978), involved a Commission order directing Florida Bridge to freeze a reserve account which had been established for extraordinary maintenance, and to deposit \$ 35,788 each year into the account until it has accumulated a reserve of \$200,000. The Supreme Court, citing City of Cape Coral, found that the Commission exceeded its authority to "fix and regulate tolls, charges, uses and hours" and set aside the Commission's order. As in Florida Bridge Company, OPC's request for an order prohibiting WMSI "from advancing any additional Utility monies for non-utility purposes without express Commission approval" is a request for injunctive relief, a power reserved to the courts, and outside the Commission's authority to regulate rates.⁴¹

Deltona Corp. v. Mayo, 342 So.2d 510 (Fla. 1977), and Aloha Utilities v Public Service Commission, 376 So. 2d 850 (Fla. 1978) are particularly instructive. In Deltona, the Commission denied an otherwise justified rate increase to a utility due to the Commission's finding that the Utility had violated the land sales law. The Supreme Court stated that "[i]f Deltona has engaged in an unfair business practice or committed fraud, ... it may be a concern of other state agencies or the basis for private law suits ... but it is not a matter of statutory concern

⁴⁰ See Order No. PSC-11-0010-SC-WU.

⁴¹ See also: Sandpiper Homeowners Ass'n v. Lake Yale Corp., 667 So. 2d 921 (Fla. 5th DCA 1996) (although the Commission has exclusive jurisdiction to entertain actions involving utilities with regard to services and rates, the circuit court is vested with jurisdiction to hear matters outside of that realm, thus, the Commission has no power to adjudicate contract disputes or award money damages); Loxahatchee River Envtl. Control Dist. v. Mann, 403 So. 2d 363 (Fla. 1981) (Commission does not have jurisdiction to grant a private utility authority to operate within the Loxahatchee River Environmental Control District without the district's consent); Ramos v. Fla. Power & Light Co., 21 So. 3d 91 (Fla. 3rd DCA 2009) (Commission has no authority to award compensatory damages).

⁴¹ Tellingly, OPC, in the instant Docket, recently argued that the Commission lacked the power to issue an injunction against a non-regulated party. See Order No. PSC-13-0045-PCO-WU, issued January 24, 2013.

to the Public Service Commission. That agency has no authority to vindicate breaches, if any, of the land sales laws or private contracts.” Deltona, at 512. In Aloha, the Commission tried to sanction the Utility for its noncompliance with its regulations by denying an otherwise justified rate increase. The court stated: “[t]he Commission is not free to use its regulatory power to effect purposes not conferred on it by statute.” Aloha, at 851. In the instant docket, OPC, arguing mismanagement by the Utility, seeks an order requiring the Utility President and associated companies to repay funds previously advanced to them; charging interest on \$1.2 million advanced to the President and his companies; and ordering WMSI to transfer and use the assets of an associated company for utility purposes. Under the holdings in Deltona and Aloha, such relief is not within the Commission’s powers to award.

Additionally, OPC requested nearly the identical relief on nearly the identical issue in Docket 100104-WU, recommending that we prohibit WMSI from making any additional investments or transfers of cash to associated companies without prior approval from the Commission, require WMSI to demand return or repayment of all advances and investments in associated companies, and, in the absence of the return of these advances, impute a return on these funds for purposes of offsetting any revenue deficiency claimed by the Utility in future rate proceedings. In Final Order No. PSC-11-0010-SC-WU, we stated:

[O]ur primary actions when there is an indication of mismanagement and there is an indication that revenues are inappropriately or imprudently expended, we have three main remedies: (1) we can take the funds out of equity or reduce the return on equity; (2) we can reduce the amount allowed for the president’s salary; or (3) we can and do in all cases make sure that any imprudent expenditures and associated costs do not increase the rates of the customers. Further, if it affects quality of service, we can require specific improvements. In this case, we have found that the quality of service provided by the Utility is satisfactory. Also, upon close review, the advances of funds to the Utility’s associated companies do not appear to have negatively impacted the rates approved. Finally, we note that we have declined to micromanage business decisions of a Utility.⁴² Based on all the above, we do not believe that the actions requested by OPC are appropriate. Further, under normal circumstances, we believe prudence reviews in general rate cases provide ample protection to the customers.⁴³

(Emphasis supplied)

⁴² See Order No. PSC-04-0712-PAA-WS, issued July 20, 2004, in Docket Nos. 020896-WS and 010503-WU, In re: Petition by customers of Aloha Utilities, Inc. for deletion of portion of territory in Seven Springs area in Pasco County, and In re: Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

⁴³ OPC argues that cases cited by the Commission in the Final Order in Docket No. 100104-WU, including Florida Bridge Company; Department of Transportation v. Mayo, Department of Transportation v. Mayo, 354 So. 2d 359 (Fla. 1979); City of Cape Coral; and City of Miami v. Florida Public Service Commission, 208 So. 2d 249, 259 (Fla. 1968) (provision against retroactive ratemaking), can be distinguished. However, OPC does not state the factors that distinguish these cases from the instant case.

OPC further requested that we order WMSI to transfer the assets of Brown Management Group to WMSI and order that income from those assets remain in WMSI to be used for utility-purposes. As stated above, we have ruled that we do not have express statutory authority to preclude a utility from making investments in associated companies.⁴⁴ As a corollary, we also do not have the statutory authority to require an associated company, in this case a subsidiary corporation, to transfer property owned by the subsidiary to its parent or to require a parent corporation to acquire the subsidiary's property. This remedy would be akin to piercing the "corporate veil," since the property of a parent's subsidiary is not considered property of the parent solely by virtue of the parent's ownership of the subsidiary. The Commission has no jurisdiction to disregard the legal existence of a corporation. Roberts' Fish Farm v. Spencer, 153 So. 2d 718, 721 (Fla. 1963).

Lastly, OPC argued that Exhibit 110 containing a selection of Commission orders show our prior "proactive" involvement with WMSI. The orders show that we required WMSI and/or its predecessor, St. George Island Utility Company, Ltd., to either place funds in escrow or denied requests for withdrawals from escrow.⁴⁵ In Order No. 23258,⁴⁶ we ordered WMSI to place funds in escrow for the purchase of a water tank. However, we required that the water tank, being paid for by the customers, be titled in the utility's name before a withdrawal from escrow was approved. In Order No. PSC-93-0370-AS-WU,⁴⁷ we approved a stipulation, offered by St. George/WMSI, to have the utility hire a co-manager in settlement of an action to revoke the utility's certificate. These orders do nothing more than support the relief we already ordered in the PAA Order⁴⁸ being protested, and do not provide support for other relief sought by OPC.

We addressed the issue of the Utility's advances to its President and associated companies in Docket No. 100104-WU, which concluded with Order No. PSC-11-0010-SC-WU. We required staff to perform a cash flow audit of the utility and recommend an appropriate adjustment if it was determined the activity recorded in Account 123 impaired the Utility's ability to meet its financial and operating responsibilities.⁴⁹ The record evidence in this protest shows that staff conducted a cash flow audit which was released July 29, 2011. Regarding Account 123, the staff cash flow audit concluded:

The net receivable of \$1,175,075 from Gene Brown and associated companies, as of December 31, 2010, represents funds that have been moved out of the Utility for either Gene Brown's personal use or one of the associated companies.⁵⁰

⁴⁴ See Order No. PSC-11-0010-SC-WU, pp. 50-56.

⁴⁵ See Order Nos. PSC-94-1383-FOF-WU, issued November 4, 1994, in Docket No. 940109-WU; Order No. 23174, Issued July 11, 1990, in Docket 871177-WU; and PSC-12-0641-PCO-WU, issued December 4, 2012, in Docket No. 110200-WU.

⁴⁶ See Order No. 23258, issued July 27, 1990, in Docket No. 871177-WU.

⁴⁷ See Order No. PSC-93-0370-AS-WU, issued March 9, 1993, in Docket 920782-WU.

⁴⁸ See Order No. PSC-12-0435-PAA-WU, issued August 22, 2012, in Docket No. 110200-WU.

⁴⁹ See Order No. PSC-11-0010-SC-WU, p. 56.

⁵⁰ See Document No. 05312-11, Auditor's Report, WMSI Cash Flow Audit in docket No. 100104-WU, Audit Control No. 11-007-1-2, dated July 29, 2011, p. 11.

As reflected in the Utility's 2011 annual report, the amount in Account 123 increased to \$1,215,075 as of December 31, 2011 after correcting a previous \$40,000 accounting error. After analyzing the cash flow audit, technical staff, in its recommendation in Docket No. 110200-WU dated July 20, 2012, recommended that we accept the Utility's proposal to escrow certain funds for debt service payments and, in addition, reduce the President's salary and pension and benefits expense by a total of \$44,441.⁵¹ In the PAA Order in this docket we stated:

...the Utility's loan agreement with DEP has been amended on at least four occasions and that WMSI has not made some payments as originally scheduled. We note that during this period when scheduled payments were not made, cash was being advanced to the President and associated companies.⁵²

In the PAA order we ordered the Utility to place funds in escrow to meet its obligations to repay loans obtained for purposes of building the water tank and for the DEP loan payments and reduced the President's salary and pension and benefits expense by a total of \$19,046.⁵³ The evidence on record in this protest does not change the facts and circumstances underlying our ruling in the PAA Order.

WMSI contended that a 15-percent reduction in salary expense is arbitrary and should be reversed. The Utility's witnesses testified that the reduction of salary and benefits by 15 percent is based on the Commission's analysis that, by the Utility extending the term of the DEP loan, additional interest costs would be borne by the ratepayers. According to the Utility's witnesses, this direct reduction to expenses does not equate to the rate recovery afforded the Utility in the rate-making process, through the calculation of the revenue requirement or in the ultimate rates charged to the customers. As such, WMSI's witnesses testified that the revenue requirement does not factor in the actual annual interest expense that is required to be paid on the Utility's loans.

Witness Guastella testified that the actions of WMSI's President did not result in any increase of the rates that the customers will pay and extending the term of the DEP loan should not be the basis for a reduction of his salary. Witness Guastella testified, "I would add that the President's success in obtaining financing for a utility with significant cash flow problems, no equity, and negative retained earnings, is an accomplishment that was in the best interests of the customers in order to make the improvements necessary to continue to provide adequate service." Witness Brown added that his salary of \$110,000 per year is fair and reasonable, especially since it had already been reduced to \$96,250 by another non-protested adjustment in this case. According to the witness, he also reduced his salary in 2009 (from \$150,000) because WMSI was experiencing cash flow problems due to the economy.

OPC witness Schultz argued that for reasons similar to those put forward in staff's PAA recommendation, a salary reduction would be appropriate here. While advocating for the reduction, witness Schultz claimed that staff's recommended salary reduction does not take into

⁵¹ See staff recommendation dated July 20, 2012, pp. 35-38.

⁵² See Order No. PSC-12-0435-PAA-WU, p. 27.

⁵³ See Order No. PSC-12-0435-PAA-WU, p. 28.

account the additional interest added when the life of the loan was extended an additional 10 years. Witness Schultz asserted that since additional amendments have been made to the DEP loan, the salary and benefits reduction should be increased to offset the added interest. The witness noted that the incremental interest expense referenced in staff's PAA recommendation, \$928,071, was calculated through December 31, 2010. The witness asserted that the incremental difference in interest between the original loan payment schedule and the Amendment 5 payment schedule is \$1,123,060.

The record evidence shows that, in addition to missing payments on the DEP loan, the Utility fell behind on its accounts payable, and had to request two regulatory assessment fee (RAF) payment plans. WMSI defaulted on the DEP loan in 2012. When asked by staff, "In general, does defaulting on a loan increase or decrease a firm's credit risk?" witness Brown responded, "I would say it generally decreases your credit standing, if the credit bureaus and other people know about it through third parties normally."

Major concerns for utilities in financial distress include safety and quality of service. As we noted in the PAA Order, the Utility's water storage tank was described by the Utility and others as on the verge of catastrophic collapse.⁵⁴ Witness Brown verified that he had testified in May 2010 that, "...the ground storage tank is crumbling and we could have a catastrophic failure at any time." When asked if the tank were to fail would it affect fire protection, witness Brown responded, "It probably would."

We find that advancing cash to the President and associated companies in lieu of making required debt service payments and needed capital improvements has exacerbated WMSI's financial distress and threatened utility operations as well as the safety of the ratepayers. WMSI is a Class A water utility that has been severely undercapitalized since its inception. We find that diverting funds to the President and associated companies for non-utility purposes runs counter to the Utility's responsibility to operate in the public interest.

The essence of the Utility's argument that the Utility's advances to WMSI's President and associated companies have not had any adverse impact on the Utility or its ratepayers is that "The customers pay no additional interest expense as a result of the re-amortization of the DEP loan to match the depreciation rate of the asset purchased with the loan" and "...Gene Brown and affiliates have substantially subsidized WMSI." However, it is undisputed that extending the life of the DEP loan for an additional 10 years increased the total amount of interest that will be paid on that loan.

Further, the evidence shows that WMSI capitalized the missed interest payments to principal. Over the course of the 20 years remaining on the life of the loan, the interest associated with missed interest payments is approximately \$352,000. This additional interest, divided by 20 years, equates to an additional \$17,626 per year of interest expense for the DEP loan above and beyond the interest expense contemplated at the time the loan was originated and the interest expense associated with the extended maturity.

⁵⁴ See Order No. PSC-12-0435-PAA-WU, pp. 3, 9, and 27.

We find that advancing funds to the President and associated companies adversely affected WMSI specifically in its ability to attract capital and attract capital at a reasonable rate which is degraded by defaulting on loans, paying bills late, and postponing necessary infrastructure investment. Regarding the Utility's claim that Gene Brown and affiliates have substantially subsidized WMSI, we find and it is undisputed that WMSI is and always has been severely undercapitalized. We find that there is no credible evidence in the record to contradict the finding in the staff's cash flow audit that, "The net receivable of \$1,175,075 from Gene Brown and associated companies, as of December 31, 2010, represents funds that have been moved out of the Utility for either Gene Brown's personal use or one of his associated companies."

We find that by advancing funds to the Utility's President and associated companies while it already was in a financially precarious situation, WMSI exacerbated its financial distress and delayed necessary infrastructure improvements. Advancing cash to the President and associated companies in lieu of making required debt service payments and needed capital improvements has degraded the credit profile of the Utility and adversely affected the Utility and is contrary to operating in the public interest. WMSI's failure to replace the water storage tank has threatened utility operations as well as the safety of the ratepayers. Further, due to the Utility's actions the ratepayers will pay increased interest expense associated with the restructured loan.

Based on the foregoing actions of the Utility's President and the evidence on record, WMSI President's annual salary shall be reduced by the sum of \$17,626. This reduction reflects the additional interest due on the DEP loan for the missed interest payments capitalized to principal. Furthermore, WMSI shall file quarterly reports delineating all advances, loans, investments, notes receivable and accounts receivable between WMSI and the President and associated companies including the date, amount, and reason for the transaction(s).

REVENUE REQUIREMENT

The appropriate revenue requirement

In its filing, WMSI requested a revenue requirement to generate annual revenue of \$2,019,622. This requested revenue requirement represents a revenue increase of \$714,035, or approximately 54.69 percent. Consistent with our findings concerning the underlying rate base, cost of capital, and operating income issues, we approve rates designed to generate a revenue requirement of \$1,905,203. The computation of the revenue requirement is shown on Schedule No. 3-A. The water revenue requirements exceeds our adjusted test year revenues by \$599,616, or 45.93 percent. This pre-repression revenue requirement will allow the Utility the opportunity to recover its expenses and earn a 5.61 percent return on its investment in rate base.

RATES

Appropriate repression adjustment

In the PAA Order, issued August 22, 2012, we approved the application of a repression adjustment of 6.9 percent that resulted in residential consumption being reduced by approximately 7,900,000 gallons. The adjustment was calculated using our standard methodology to determine customers' reaction to changes in price.⁵⁵ Since the application of a repression adjustment was not a protested issue, the recommended repression adjustment in this case is a fall-out calculation based upon the new revenue requirement discussed below. Therefore, a repression adjustment of 7.7 percent in this case, resulting in residential consumption being reduced by 8,951,000 gallons shall be applied.

Appropriate water rates

In the PAA Order, we approved rates that were developed using the billing determinants provided by the Utility in its MFR Schedules, a base facility charge cost recovery percentage of 50 percent, a repression adjustment as discussed above and two rate blocks (0-6,000 and 6,001+). This issue was not protested; as such, the monthly rates are a fall-out calculation, and are shown on Schedule No. 4, attached to this Order.

The Utility shall file revised tariff sheets and a proposed customer notice to reflect our approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates shall not be implemented until staff has approved the proposed customer notice. The Utility shall provide proof of the date the notice was given within 10 days of the date of the notice. The appropriate monthly rates are shown on Schedule No. 4.

Service availability charges

In its PAA filing, the Utility proposed that the service availability charge (SAC) be increased to \$10,004, with the plant capacity charge increasing to \$9,079, the meter installation fee increasing to \$400 and the main extension charge to remain unchanged. WMSI witness Allen testified that this increase would result in the net contributions-in-aid-of- construction (CIAC) to net plant ratio reaching 75 percent at design capacity. In support, WMSI witness Brown testified that WMSI should be allowed to recover 75 percent of the cost of its plant at build out from its customers who benefit from that plant. The witness testified that she has seen PSC cases where utilities were ordered to increase their CIAC closer to the 75 percent standard. Witness Brown testified that WMSI should not be treated any differently than the only other

⁵⁵ In its PAA Order, the Commission noted that many homes on St. George Island are not fulltime owner-occupied homes but are vacation rental properties. Like the General Service class, these homeowners may pass along increases to their customers (i.e., the vacation home renter). To reflect this relative insensitivity to price changes, the price elasticity of demand was set at -0.2 instead of -0.4 normally used to calculate repression adjustments.

Commission-regulated utility in Franklin County, a utility owned by St. Joe, which is allowed to collect CIAC at the 75 percent level.

Witness Allen testified that WMSI's ratio of CIAC to net plant under present charges and assuming no additions to plant, is only 35 percent. She testified that, after the proposed additions to plant, that ratio will drop to 25 percent at design capacity. The current charges are \$1,620, composed of a plant capacity charge of \$845, a main extension charge of \$525 and a meter installation fee of \$250. The witness testified that the increased level of CIAC will have a mitigating effect on monthly service rates to existing and future customers. Moreover, witness Guastella testified that while the projections of the net investment and capacity component of the calculation of the SAC is typically speculative to some extent, that should not be a reason to reduce the allowable SAC, particularly for a utility with a relatively large plant cost in relation to rate base. Witness Guastella also testified that the proposed SAC will enable the Utility to have sufficient capital in the form of CIAC and to help attract additional capital despite earnings limited to a reduced rate base.

OPC protested the SACs approved by the PAA Order in part because the increased charges were based on future plant yet to be constructed and placed in service. OPC witness Vandiver stated the amount of the increase in SACs established by the PAA Order was calculated consistent with our methodology for calculating such charges. She testified that she did not dispute the methodology used to calculate the increase in the amount of the SACs, she was concerned about the lack of any true-up mechanism, and the absence of any requirement to escrow the increase in SACs.

In witness Vandiver's opinion, the methodology we used in the PAA Order was reasonable and calculated reasonable SACs. We calculated the average cost per ERC for both the treatment plant and the transmission and distribution plant, and used the average costs per ERC to determine reasonable charges. This calculation resulted in total SACs per ERC of \$5,310, for a \$3,690 increase. The witness stated that the plant capacity, main extension, and meter installation charges established by the PAA Order are reasonable because they are based on a reasonable calculation of average costs per ERC. Additionally, the witness testified that she agreed with our PAA Order which concluded that there is no mandatory requirement in Rule 25-30.580, F.A.C., to set the level at 75 percent and stated that the Utility's request to increase the charges further should be rejected.

Witness Vandiver testified that because the SACs are also based in part on pro forma plant, they should be subject to the same escrow and true up provisions as the monthly rates. The true up process and escrow requirements were established in the PAA Order. According to the witness, we have required that SACs be escrowed so that those monies would be available for future capital improvements.⁵⁶ The witness added that this will not only benefit the Utility, but the customers as well, by ensuring there are available funds necessary for future capital improvements.

⁵⁶ See Order No. PSC-94-1383-FOF-WU, issued November 14, 1994, in Docket No. 940109-WU, In re: Petition for interim and permanent rate increase in Franklin County by St. George Island Utility Company, Ltd.

The Utility currently has authorized service availability charges of \$845, \$525, and \$250 for a plant capacity charge, a main extension charge, and a meter installation charge, respectively. The total for these current charges is \$1,620. In its filing, WMSI requested revised SACs of \$10,004. The requested SAC increase was based on the Utility's proposed pro forma plant additions, which were approved in the PAA Order.

We last considered the level of SACs in WMSI's 2010 rate case, but chose not to modify the existing charges.⁵⁷ We last set WMSI's existing SACs in 1994.⁵⁸ Rule 25-30.580, F.A.C., establishes guidelines for designing service availability policy. Pursuant to the rule, the maximum amount of CIAC, net of amortization, should not exceed 75 percent of the total original cost, net of accumulated depreciation, of the Utility's facilities and plant when the facilities and plant are at their designed capacity. We find that the minimum amount of CIAC shall not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution systems.

We find that WMSI's ratio of net CIAC to net plant indicates that, with present SAC charges and no additions to plant, the ratio is currently only 35 percent. After the proposed additions to plant, that ratio will drop to 25 percent at design capacity. The current charge of \$1,620 is composed of a plant capacity charge of \$845, a main extension charge of \$525, and a meter installation fee of \$250. WMSI proposes that the charge be increased to \$10,004, a 517.56 percent increase. Under WMSI's proposed SACs, the plant capacity charge increases to \$9,079, the meter installation fee increases to \$400, and the main extension charge remains at its current level. In addition, a plant capacity charge for "all others-per gallon/day" increases from \$2.41 to \$25.94. A similar "all others-per gallon/day" charge for the main extension charge remains the same under the Utility's proposal. The proposed plant capacity charge represents an increase of approximately 974 percent over the existing charge. This results in the net CIAC to net plant ratio reaching 75 percent at design capacity. The Utility contends that the increased level of CIAC will have a mitigating effect on monthly service rates to existing and future customers.

There is no mandatory requirement to set the level at 75 percent. Per the clear language of the rule, the 75 percent level is the maximum and levels may be set below the maximum. WMSI's requested SACs are based in large part on pro forma plant additions that may, or may not, come to fruition, and at a time when customer growth is stagnant. Given those conditions, we find that an approximately 518 percent increase in the total SACs per ERC is excessive, with the potential to stunt future growth.

In order to determine the appropriate charges, we calculated the average cost per ERC for both the treatment plant and the transmission and distribution plant as we have done previously.⁵⁹ We find that using the average costs per ERC will result in reasonable charges. OPC agrees with this methodology. We calculated the total treatment plant cost using the

⁵⁷ See Order No. PSC-11-0010-SC-WU, pp. 49-50.

⁵⁸ See Order No. PSC-94-1383-FOF-WU, pp. 65-66.

⁵⁹ See Order No. PSC-00-1528-PAA-WU, issued August 23, 2000, in Docket No. 991437-WU, In re: Application for increase in water rates in Orange County by Wedgefield Utilities, Inc.

adjusted 13-month average of \$7,196,409. We divided this amount by 2,125 which represents the total capacity in ERCs of the treatment plant. This calculation results in an average plant capacity cost per ERC of approximately \$3,387. The corresponding plant capacity charge for "all others-per gallon/day" shall be \$9.68 ($\$3,387/350$ gpd).

We took the total transmission and distribution plant of \$3,237,063 (adjusted 13-month average) and divided this amount by 2,125 which represents the total capacity in ERCs. Our calculation generated an average cost for the transmission and distribution plant of approximately \$1,523, which represents the average main extension charge. The corresponding main extension charge for "all others-per gallon/day" shall be \$4.35 ($\$1,523/350$ gpd).

We find that the \$400 meter installation charge proposed by WMSI is reasonable, cost based, and shall be approved. This represents a \$150 increase over the existing charge.

Based on the discussion above, we find that the appropriate combined SAC per ERC shall be \$5,310, a \$3,690 increase. The increase is the result of increases to the plant capacity charge of \$2,542, the main extension charge of \$998, and the meter installation fee of \$150.

While agreeing with the methodology and the reasonableness of our calculated charges, OPC expressed concern that the proposed SACs were based in large part on pro forma plant. OPC advocated that the amount of the SACs should be trued-up and based on actual pro forma plant placed in service during the true-up process established by the PAA Order. OPC requested that all, or at least the increased portion, of the SACs be placed into escrow subject to the same escrow requirements established by the PAA Order. Witness Vandiver testified that her primary concern was that if the pro forma plant was not fully completed or was completed at a significantly lower cost, the increased SACs would be overstated and could cause future ratepayers to pay more than their reasonable share of utility plant in service costs through inflated SACs. We find OPC's concerns valid, especially given the recent reduction of land costs from the \$420,000 approved in the PAA Order, to \$190,000 currently being paid through escrow.⁶⁰

We find that customer growth in WMSI's service territory is very limited at this time, and as a result, the true-up measure will adequately protect both the Utility and its customers. Accordingly, the amount of the SACs shall be trued-up and based on actual pro forma plant placed in service during the true-up process established by the PAA Order.

WMSI's SACs shall be revised. The charges are based on the record, consistent with the guidelines set forth in Rule 25-30.580, F.A.C., and shall be approved. The approved charges shall be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475, F.A.C. The amount of the SACs shall be trued-up and based on actual pro forma plant placed in service during the true-up process established by the PAA Order. The appropriate revised SACs for WMSI are reflected below.

⁶⁰ See Order No. PSC-12-0641-PCO-WU, p. 3.

Table 9

Service Availability Charges			
Type of Charge	Present Charge	Proposed Charge	Approved Charge
Plant Capacity Charge-Res. per ERC	\$845	\$9,079.47	\$3,387
Plant Capacity Charge-All others per Gallon/Day	\$2.41	\$25.94	\$9.68
Main Extension Charge-Res. per ERC	\$525	\$525	\$1,523
Main Extension Charge- All others per Gallon/Day	\$1.50	\$1.50	\$4.35
Flow Meter Installation/Res.	\$250	\$400	\$400

Amount and calculation of refund

By Order No. PSC-12-0030-PCO-WU, we authorized the collection of interim water rates, subject to refund, pursuant to Section 367.082, F.S. The approved interim water revenue requirement was \$1,417,664, which represented an increase in annual water revenue of \$115,803 or approximately 8.90 percent. This interim increase was effective for service rendered after March 1, 2012, and was protected by funds held in escrow.

According to Section 367.082, F.S., any refund shall be calculated to reduce the rate of return of the utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in the rate case test period that do not relate to the period interim rates are in effect shall be removed. Rate case expense is an example of an adjustment which is recovered only after final rates are established.

In this proceeding, the test period for establishment of interim and final rates is the 13-month average period ended December 31, 2010. WMSI's approved interim rates did not include any provisions for pro forma or projected operating expenses or plant. The interim increase was designed to allow recovery of actual interest costs, and the floor of the last authorized range of return on equity.

To establish the proper refund amount, we calculated a revised interim revenue requirement utilizing the same data used to establish final rates. Rate case expense was excluded because this item is prospective in nature and did not occur during the interim collection period.

Using the principles discussed above, the \$1,417,664 revenue requirement granted in the Interim Order for the test year is less than the revised revenue requirement for the interim collection period of \$1,839,705. Further, the \$1,811,648 revenue requirement granted in the PAA Order for the test year is less than the revised revenue requirement for the interim collection period of \$1,872,028. This results in no interim refund. As such, the interim escrow account shall be released.

Reduction of rates due to removal of amortized rate case expense

Rates shall be reduced for annual rate case expense, grossed-up for regulatory assessment fees (RAFs), which is being amortized over a four-year period. Removal of \$60,940

associated with rate case expense will result in the rate reduction on Schedule No. 4. The decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The Utility shall be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The rates shall not be implemented until staff has approved the proposed customer notice. WMSI shall provide proof of the date notice was given within 10 days of the date of the notice. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in the rates due to the amortized rate case expense.

This docket shall remain open for staff to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, to process future escrow requests, to confirm that our approved pro forma items have been completed, and to complete a true-up analysis of the pro forma plant costs. Further, as discussed above, WMSI shall produce and staff shall verify the loan documents and make any necessary true-up adjustments. Once these actions are complete, this docket shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application for increased water rates by Water Management Services, Inc., is approved in part as set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order are hereby approved in every respect. It is further

ORDERED that all matters contained in the attachments and schedules appended hereto are incorporated herein by reference. It is further

ORDERED that Water Management Services, Inc. shall charge the rates and charges as set forth in the body of this Order and as shown on Schedule No. 4 attached hereto. It is further

ORDERED that Water Management Services, Inc. shall file revised water tariff sheets and a proposed customer notice to reflect the approved water rates. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. It is further

ORDERED that the approved water rates shall not be implemented until our staff has approved the proposed customer notice, and Water Management Services, Inc. shall provide proof of the date notice was given no less than ten days after the date of the notice. It is further

ORDERED that no refund of the interim water rates is required, and those escrowed funds may be released to the Utility. It is further

ORDERED that the water rates shall be reduced as shown on Schedule No. 4 to remove the amortization of rate case expense, grossed up for regulatory assessment fees. It is further

ORDERED that the decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period. It is further

ORDERED that Water Management Services, Inc. shall file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction to reflect the approved reduction in rates no later than 30 days prior to the actual date of the required rate reduction. It is further

ORDERED that the approved reduction in rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. It is further

ORDERED that the reduction in rates shall not be implemented until our staff has approved the proposed customer notice. The Utility shall provide proof of the date notice was given no less than ten days after the date of the notice. It is further

ORDERED that if Water Management Services, Inc. files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in the rates due to the amortized rate case expense. It is further

ORDERED that Water Management Services, Inc. shall file revised tariff sheets reflecting the revised service availability charges approved in this Order. It is further

ORDERED that the approved service availability charges shall be effective for service rendered on or after the stamped approval date of the tariff, pursuant to Rule 25-30.475, F.A.C. It is further

ORDERED that Water Management Services, Inc. shall file quarterly reports delineating all advances, loans, investments, notes receivable and accounts receivable between WMSI and its President and associated companies including the date, amount, and reason for the transaction(s). It is further

ORDERED that Water Management Services, Inc. shall include in its quarterly reports documentation regarding the amount its vendors have been paid each quarter. In addition, the Utility shall file affidavits from the vendors when they have been paid in full. It is further

ORDERED the amount of the service availability charges shall be true-up and based on actual pro forma plant placed in service during the true-up process established by Order No. PSC-12-0435-PAA-WU. It is further

ORDERED that the provisions of Order No. PSC-12-0435-PAA-WU are affirmed in all other respects. It is further

ORDERED that the docket shall remain open to allow our staff to verify that the pro forma items have been completed and the true-up of the pro forma plant costs has been accomplished; to verify that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff; to process future escrow requests; to confirm that our approved pro forma items have been completed, and to verify the loan documents, to monitor and verify payments to vendors and to make any necessary true-up adjustments. It is further

ORDERED that once these actions are complete, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 16th day of May, 2013.



ANN COLE
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MFB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT A

Issues Not in Dispute Deemed Stipulated Pursuant to Section 120.80(13)(b), Florida Statutes.

(The issues are numbered as designated in the staff proposed agency action recommendation dated July 20, 2012, and approved by the Commission at the August 2, 2012 Commission Conference – See Order No. PSC-12-0435-PAA-WU).

QUALITY OF SERVICE

PAA ISSUE 1: Is the quality of service provided by Water Management Services, Inc. considered satisfactory?

STIPULATION: Yes, the overall quality of service provided by the Utility shall be considered satisfactory.

RATE BASE

PAA ISSUE 2: Shall the audit adjustments to which the Utility and staff agree be made?

STIPULATION: Yes. Based on the audit adjustments agreed to by the Utility and staff, operations and maintenance (O&M) expenses shall be reduced by \$877.

PAA ISSUE 3: Shall any audit adjustments contested by the Utility be made to rate base?

STIPULATION: Yes. WMSI's test year rate base shall be adjusted as follows: plant shall be increased by \$3,426, and accumulated depreciation shall be increased by \$1,420. The following corresponding adjustments shall also be made: depreciation expense shall reflect a net decrease of \$23,811, and taxes other than income shall be decreased by \$1,647.

PAA ISSUE 5: Shall adjustments be made to the Utility's pro forma plant additions and associated expenses?

STIPULATION: The Utility shall be allowed to implement the approved rates by submitting the appropriate tariff sheets and proposed notice which shall be verified and approved by our staff. The approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. The rates shall not be implemented until notice has been received by the customers. WMSI shall provide proof of the date notice was given within ten days of the date of the notice. If the Utility encounters any unforeseen events that will impede the completion of the pro forma items, the Utility shall

immediately notify this Commission in writing. The following adjustments shall also be made to reflect appropriate pro forma plant: plant in service shall be reduced by \$571,040, accumulated depreciation shall be increased by \$37,459, net depreciation expense shall be increased by \$37,459, and taxes other than income shall be reduced by \$5,786. In addition, amortization-other expense shall be reduced by \$1,516, to reflect appropriate amortization of retired plant included in pro forma.

PAA ISSUE 6: What are the used and useful percentages of the Utility's water system?

STIPULATION: WMSI's water treatment plant (WTP) and storage facilities shall be considered 100 percent used and useful (U&U). The utility's transmission and distribution (T&D) mains shall be considered 100 percent U&U, except for the distribution lines serving the Plantation subdivision that are less than 8 inches in diameter. The distribution lines in the Plantation that are less than 8 inches in diameter shall be considered 60.9 percent U&U. Accordingly, rate base, depreciation expense, and property taxes shall be reduced by \$18,023, \$1,833, and \$154, respectively.

PAA ISSUE 7: What is the appropriate amount of unamortized rate case expense?

STIPULATION: The appropriate unamortized rate case expense (URCE) is \$176,850.

COST OF CAPITAL

PAA ISSUE 10: What is the appropriate return on equity?

STIPULATION: Based on the Commission leverage formula currently in effect, the appropriate return on equity (ROE) is 11.16 percent. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes. However, it has no effect on the amount of the proposed rate increase because the Utility's capital structure consists of only long-term debt and customer deposits.

NET OPERATING INCOME

PAA ISSUE 12: Shall any adjustments contested by the Utility be made to test year O&M expenses?

PARTIAL STIP.: WMSI's test year O&M expenses shall be reduced by \$62,066 after removing the protested adjustment to transportation expense. In addition, plant shall be increased by \$6,465. Further, accumulated depreciation and depreciation expense shall be increased by \$148 and \$323, respectively.

PAA ISSUE 14: What is the appropriate amount of rate case expense?

STIPULATION: The appropriate amount of rate case expense is \$124,519. This expense shall be recovered over four years for an annual expense of \$31,130. Therefore, annual rate case expense shall be reduced by \$23,870.

RATES

PAA ISSUE 18: What are the appropriate billing determinants for the historical test year ending December 31, 2010?

STIPULATION: The appropriate test year billing determinants before repression are those listed in the MFR Schedules E-2 and E-14.

PAA ISSUE 19: What are the appropriate rate structures for the Utility's water systems?

STIPULATION: From a financial integrity point, a two-tier rate structure featuring a relatively modest increase in price of the second tier will remove the economic incentive to install shallow wells. The approved rate structure will still achieve water conservation goals established by the NFWFMD, by having inclining block rates, while simultaneously helping insure long term financial viability for the Utility. Therefore, we find a two-tier inclining block rate structure with the base facility charge cost recovery level of 50 percent with usage blocks set for monthly usage levels of 0 – 6 kgals and for usage in excess of 6.001 kgals is appropriate..

PAA ISSUE 22: Shall the Utility's request for approval of a \$5.00 late fee be granted?

STIPULATION: Yes. The Utility's requested late fee of \$5.00 shall be approved. The late fee shall be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates shall not be implemented until staff has approved the proposed customer notice. The Utility shall provide proof of the date the notice was given within ten days of the date of the notice. This notice may be combined with the notices required in other issues.

PAA ISSUE 23: Shall the Utility's request for approval of a Non-Sufficient Funds fee be granted?

STIPULATION: Yes. The Utility's requested Non-Sufficient Funds (NSF) fee shall be approved. The NSF fee shall be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates shall not be implemented until staff has approved the proposed customer notice. The Utility shall provide proof of the date the notice was

given within ten days of the date of the notice. This notice may be combined with the notice required in other issues.

PAA ISSUE 27: Shall the Utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission approved adjustments?

STIPULATION: Yes. To ensure that the Utility adjusts its books in accordance with the Commission's decision, WMSI shall provide proof, within 90 days of the final order in this docket, that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Water Management Services, Inc. - Protest				Schedule No. 1-A	
Schedule of Water Rate Base				Docket No. 110200-WU	
Test Year Ended 12/31/10					
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Comm. Adjust- ments	Comm. Adjusted Test Year
1 Plant in Service	\$8,840,469	\$3,353,442	\$12,193,911	(\$558,564)	\$11,635,347
2 Land and Land Rights	87,856	501,238	589,094	(5,279)	583,815
3 Non-used and Useful Components	0	0	0	(18,023)	(18,023)
4 Accumulated Depreciation	(3,345,867)	182,184	(3,163,683)	(39,157)	(3,202,840)
5 CIAC	(3,322,830)	0	(3,322,830)	0	(3,322,830)
6 Amortization of CIAC	1,420,734	0	1,420,734	0	1,420,734
7 Advances for Construction	(12,019)	712	(11,307)	0	(11,307)
8 Working Capital Allowance	39,885	0	39,885	(39,885)	0
9 Other - CWIP	<u>48,946</u>	<u>(48,946)</u>	<u>0</u>	<u>0</u>	<u>0</u>
10 Rate Base	<u>\$3,757,174</u>	<u>\$3,988,630</u>	<u>\$7,745,804</u>	<u>(\$660,907)</u>	<u>\$7,084,897</u>

Water Management Services, Inc. - Protest Adjustments to Rate Base Test Year Ended 12/31/10		Schedule No. 1-B Docket No. 110200-WU
Explanation	Water	
<u>Plant In Service</u>		
1	Prior Order Adjustment from AF 1. (Stipulated)	\$3,426
2	Reflect appropriate pro forma plant. (Stipulated)	(571,040)
3	Reclassifying items expensed to plant. (Stipulated)	6,465
4	Reflect appropriate test year plant. (Issue 8)	2,585
	Total	<u>(\$558,564)</u>
<u>Land</u>		
	Reflect appropriate pro forma land. (Stipulated)	<u>(\$5,279)</u>
<u>Non-used and Useful</u>		
	To reflect net non-used and useful adjustment. (Stipulated)	<u>(\$18,023)</u>
<u>Accumulated Depreciation</u>		
1	Prior Order Adjustment from AF 1. (Stipulated)	(\$1,420)
2	Reflect appropriate pro forma plant. (Stipulated)	(37,459)
3	Reclassifying items expensed to plant. (Stipulated)	(148)
4	Reflect appropriate test year plant. (Issue 8)	(129)
	Total	<u>(\$39,157)</u>
<u>Working Capital</u>		
	Reflect appropriate working capital allowance. (Issue 1)	<u>(\$39,885)</u>

Water Management Services, Inc. - Protest Capital Structure-Simple Average Test Year Ended 12/31/10						Schedule No. 2 Docket No. 110200-WU		
Description	Total Capital	Specific Adjust- ments	Subtotal Adjusted Capital	Prorata Adjust- ments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost
Per Utility								
1 Long-term Debt	\$11,778,773	\$0	\$11,778,773	(\$4,137,492)	\$7,641,281	98.65%	5.96%	5.88%
2 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
4 Common Equity	(2,163,302)	2,163,302	0	0	0	0.00%	11.16%	0.00%
5 Customer Deposits	112,209	(7,685)	104,524	0	104,524	1.35%	6.00%	0.08%
6 Deferred Income Taxes	0	0	0	0	0	0.00%	0.00%	0.00%
7 Total Capital	<u>\$9,727,680</u>	<u>\$2,155,617</u>	<u>\$11,883,297</u>	<u>(\$4,137,492)</u>	<u>\$7,745,805</u>	<u>100.00%</u>		<u>5.96%</u>
Per Commission								
8 Long-term Debt	\$11,778,773	\$0	\$11,778,773	(\$4,798,399)	\$6,980,374	98.52%	5.60%	5.52%
9 Short-term Debt	0	0	\$0	\$0	0	0.00%	0.00%	0.00%
10 Preferred Stock	0	0	\$0	\$0	0	0.00%	0.00%	0.00%
11 Common Equity	0	0	\$0	\$0	0	0.00%	11.16%	0.00%
12 Customer Deposits	104,524	0	104,524	\$0	104,524	1.48%	6.00%	0.09%
13 Deferred Income Taxes	0	0	\$0	\$0	0	0.00%	0.00%	0.00%
14 Total Capital	<u>\$11,883,297</u>	<u>\$0</u>	<u>\$11,883,297</u>	<u>(\$4,798,399)</u>	<u>\$7,084,898</u>	<u>100.00%</u>		<u>5.61%</u>
						LOW	HIGH	
RETURN ON EQUITY						<u>10.16%</u>	<u>12.16%</u>	
OVERALL RATE OF RETURN						<u>5.61%</u>	<u>5.61%</u>	

Water Management Services, Inc. - Protest Statement of Water Operations Test Year Ended 12/31/10						Schedule No. 3-A Docket No. 110200-WU	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Commission Adjust- ments	Commission Adjusted Test Year	Revenue Increase	Revenue Requirement
1 Operating Revenues:	<u>\$1,291,712</u>	<u>\$727,910</u>	<u>\$2,019,622</u>	<u>(\$714,035)</u>	<u>\$1,305,587</u>	<u>\$599,616</u> 45.93%	<u>\$1,905,203</u>
Operating Expenses							
2 Operation & Maintenance	1,115,100	14,452	1,129,552	(46,800)	1,082,752		1,082,572
3 Depreciation	199,395	52,841	252,236	12,268	264,504		264,504
4 Amortization	14,616	9,784	24,400	(2,675)	21,725		21,725
5 Taxes Other Than Income	107,672	44,113	151,785	(37,718)	112,067	26,983	139,050
6 Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7 Total Operating Expense	<u>1,436,783</u>	<u>121,190</u>	<u>1,557,973</u>	<u>(76,925)</u>	<u>1,481,048</u>	<u>26,983</u>	<u>1,508,031</u>
8 Operating Income	<u>(\$145,071)</u>	<u>\$606,720</u>	<u>\$461,649</u>	<u>(\$637,110)</u>	<u>(\$174,461)</u>	<u>\$572,633</u>	<u>\$397,172</u>
9 Rate Base	<u>\$3,757,174</u>		<u>\$7,745,804</u>		<u>\$7,084,897</u>		<u>\$7,084,897</u>
10 Rate of Return	<u>-3.86%</u>		<u>5.96%</u>		<u>-2.48%</u>		<u>5.61%</u>

Water Management Services, Inc. - Protest Adjustment to Operating Income Test Year Ended 12/31/10		Schedule 3-B Docket No. 110200-WU
Explanation	Water	
<u>Operating Revenues</u>		
Remove requested final revenue increase.		<u>(\$714,035)</u>
<u>Operation and Maintenance Expense</u>		
1 Agreed Upon Audit Adjustment. (Stipulated)		(\$877)
2 To reflect appropriate O&M expense from AF 4. (Stipulated)		(62,066)
3 To reflect appropriate PAA rate case expense for instant case. (Stipulated)		(23,870)
4 To reflect cost of life insurance policy. (Issue 3)		39,258
5 Reflect appropriate contractual services - accounting. (Issue 4)		(5,883)
6 To reflect the appropriate transportation expenses. (Issue 5)		(218)
7 To reflect appropriate incremental Post-PAA rate case expense. (Issue 7)		27,068
8 Reflect appropriate test year plant. (Issue 8)		(2,585)
9 To reflect officer salary reduction. (Issue 10(a))		<u>(17,626)</u>
Total		<u>(\$46,800)</u>
<u>Depreciation Expense - Net</u>		
1 Prior Order Adjustment from AF 1. (Stipulated)		\$804
2 To reflect appropriate depreciation expense from AF5. (Stipulated)		(24,615)
3 Reflect appropriate pro forma plant. (Stipulated)		37,459
4 To remove net depreciation on non-U&U adjustment above. (Stipulated)		(1,833)
5 Reclassifying items expensed to plant. (Stipulated)		323
6 Reflect appropriate test year plant. (Issue 8)		129
Total		<u>\$12,268</u>
<u>Amortization-Other Expense</u>		
1 To reflect appropriate amortization of retired plant included in pro forma. (Stipulated)		(\$1,516)
2 To amortize net gain on sales. (Issue 9)		<u>(1,159)</u>
Total		<u>(\$2,675)</u>
<u>Taxes Other Than Income</u>		
1 RAFs on revenue adjustments above.		(\$32,132)
2 To reflect appropriate TOTI from AF6. (Stipulated)		(1,647)
3 Reflect appropriate pro forma plant. (Stipulated)		(5,786)
4 To remove TOTI on non-U&U adjustment above. (Stipulated)		<u>(154)</u>
Total		<u>(\$39,718)</u>

Water Management Services, Inc. - Protest		Schedule No. 4		
Water Monthly Service Rates		Docket No. 110200-WU		
Test Year Ended 12/31/10				
	Utility Requested Final	Utility's Existing Rates (PAA)	Commission Approved Final	4-year Rate Reduction
<u>Residential</u>				
Base Facility Charge by Meter Size:				
5/8" x 3/4"	\$43.06	\$34.83	\$36.63	\$1.17
3/4"	\$64.59	\$52.25	\$54.95	\$1.76
1"	\$107.66	\$87.08	\$91.58	\$2.93
1-1/2"	\$215.31	\$174.15	\$183.15	\$5.86
Gallonage Charge, per kgal				
0-8,000 Gallons	\$5.11			
8,001-15,000 Gallons	\$6.38			
over 15,000 Gallons	\$7.68			
0-6,000 Gallons		\$6.21	\$6.53	\$0.21
over 6,000 Gallons		\$7.03	\$7.52	\$0.24
<u>General Service</u>				
Base Facility Charge by Meter Size:				
5/8" x 3/4"	\$43.06	\$34.83	\$36.63	\$1.17
3/4"	\$64.59	\$52.25	\$54.95	\$1.76
1"	\$107.66	\$87.08	\$91.58	\$2.93
1-1/2"	\$215.31	\$174.15	\$183.15	\$5.86
2"	\$344.51	\$278.64	\$293.04	\$9.37
3" Compound	\$645.95	\$557.28	\$586.08	\$18.75
3" Turbine	\$753.63	\$609.53	\$641.03	\$20.50
4" Compound	\$1,076.60	\$870.75	\$915.75	\$29.29
4" Turbine	\$1,291.90	\$1,044.90	\$1,098.90	\$35.15
6" Compound	\$2,153.16	\$1,741.50	\$1,831.50	\$58.58
6" Turbine	\$2,691.46	\$2,176.88	\$2,289.38	\$73.23
8" Compound	\$3,445.09	\$2,786.40	\$2,930.40	\$93.73
8" Turbine	\$3,875.69	\$3,134.70	\$3,296.70	\$105.45
10" Compound	\$4,952.30	\$4,005.45	\$4,212.45	\$134.74
10" Turbine	\$6,244.19	\$5,050.35	\$5,311.35	\$169.89
12" Compound	\$9,258.64	\$7,488.45	\$7,875.45	\$251.90
Gallonage Charge, per 1,000 Gallons	\$7.28	\$6.56	\$6.95	\$0.22
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>				
3,000 Gallons	\$58.39	\$53.46	\$56.22	
5,000 Gallons	\$68.61	\$65.88	\$69.28	
10,000 Gallons	\$96.70	\$100.21	\$105.89	